

FY 2020 NEW YORK STATE EXECUTIVE BUDGET

**TRANSPORTATION
ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION**

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TRANSPORTATION ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION ARTICLE VII LEGISLATION

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Legislative Bill Drafting Commission
12573-01-9

S. -----
 Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state transportation, economic
development and environmental
conservation budget for the
2019-2020 state fiscal year)

BUDGBI. TED Executive

AN ACT

to amend the public authorities law,
in relation to clarifying the dormi-
tory authority's authorization to
finance certain health care facili-
ties (Part A); to amend the public
authorities law, in relation to
authorizing the dormitory authority
to provide services to the office of
parks, recreation and historic pres-
ervation and the department of envi-

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s02 Flanagan	s09 Kaminsky	s25 Montgomery	s23 Savino
s52 Akshar	s55 Funke	s07 Kaplan	s20 Myrie	s32 Sepulveda
s46 Amedore	s59 Gallivan	s26 Kavanagh	s58 O'Mara	s41 Serino
s50 Antonacci	s05 Gaughran	s63 Kennedy	s62 Ortt	s29 Serrano
s36 Bailey	s12 Gianaris	s28 Krueger	s21 Parker	s51 Seward
s30 Benjamin	s22 Gounardes	s24 Lanza	s19 Persaud	s39 Skoufis
s34 Biaggi	s47 Griffo	s01 LaValle	s13 Ramos	s16 Stavisky
s04 Boyle	s40 Harckham	s45 Little	s61 Ranzenhofer	s35 Stewart-
s44 Breslin	s54 Helming	s11 Liu	s48 Ritchie	Cousins
s08 Brooks	s27 Hoylman	s03 Martinez	s33 Rivera	s49 Tedisco
s38 Carlucci	s31 Jackson	s53 May	s56 Robach	s06 Thomas
s14 Comrie	s60 Jacobs	s37 Mayer	s18 Salazar	s57 Young
s17 Felder	s43 Jordan	s42 Metzger	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a072 De La Rosa	a029 Hyndman	a144 Norris	a090 Sayegh
a092 Abinanti	a034 DenDekker	a104 Jacobson	a069 O'Donnell	a140 Schimminger
a084 Arroyo	a003 DeStefano	a097 Jaffee	a051 Ortiz	a099 Schmitt
a107 Ashby	a070 Dickens	a011 Jean-Pierre	a091 Otis	a076 Seawright
a035 Aubry	a054 Dilan	a135 Johns	a132 Palmesano	a052 Simon
a120 Barclay	a081 Dinowitz	a115 Jones	a002 Palumbo	a036 Simotas
a030 Barnwell	a147 DiPietro	a077 Joyner	a088 Paulin	a005 Smith
a106 Barrett	a016 D'Urso	a040 Kim	a141 Peoples-	a118 Smullen
a060 Barron	a048 Eichenstein	a131 Kolb	Stokes	a022 Solages
a082 Benedetto	a004 Englebright	a105 Lalor	a058 Perry	a114 Stec
a042 Bichotte	a074 Epstein	a013 Lavine	a023 Pheffer	a110 Steck
a079 Blake	a109 Fahy	a134 Lawrence	Amato	a010 Stern
a117 Blankenbush	a061 Fall	a050 Lentol	a086 Pichardo	a127 Stirpe
a098 Brabenec	a080 Fernandez	a125 Lifton	a089 Pretlow	a102 Tague
a026 Braunstein	a126 Finch	a009 LiPetri	a073 Quart	a071 Taylor
a138 Bronson	a008 Fitzpatrick	a123 Lupardo	a019 Ra	a001 Thiele
a093 Buchwald	a124 Friend	a129 Magnarelli	a012 Raia	a031 Titus
a142 Burke	a046 Frontus	a064 Malliotakis	a006 Ramos	a033 Vanel
a119 Buttenschon	a095 Galef	a130 Manktelow	a018 Raynor	a116 Walczyk
a094 Byrne	a137 Gantt	a108 McDonald	a062 Reilly	a055 Walker
a133 Byrnes	a007 Garbarino	a014 McDonough	a087 Reyes	a143 Wallace
a103 Cahill	a148 Giglio	a146 McMahon	a043 Richardson	a112 Walsh
a044 Carroll	a066 Glick	a017 Mikulin	a078 Rivera	a041 Weinstein
a047 Colton	a150 Goodell	a101 Miller, B.	a068 Rodriguez	a024 Weprin
a032 Cook	a075 Gottfried	a038 Miller, M. G.	a136 Romeo	a059 Williams
a085 Crespo	a021 Griffin	a020 Miller, M. L.	a027 Rosenthal, D.	a113 Woerner
a122 Crouch	a100 Gunther	a015 Montesano	a067 Rosenthal, L.	a056 Wright
a039 Cruz	a139 Hawley	a145 Morinello	a025 Rozic	a096 Zebrowski
a063 Cusick	a083 Heastie	a057 Mosley	a149 Ryan	
a045 Cymbrowitz	a028 Hevesi	a065 Niou	a121 Salka	
a053 Davila	a128 Hunter	a037 Nolan	a111 Santabarbara	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

ronmental conservation (Part B); to amend the public authorities law, in relation to the transfer and conveyance of certain real property (Part C); to amend chapter 60 of the laws of 2015, constituting the infrastructure investment act, in relation to project delivery and making such provisions permanent (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); to amend the environmental conservation law, in relation to the definition of beverage containers; and to amend section 12 of part F of chapter 58 of the laws of 2013 amending the environmental conservation law and the state finance law relating to the "Cleaner, Greener NY Act of 2013", in relation to extending the effectiveness thereof (Part F); to amend the environmental conservation law, in relation to establishing authority to solicit funds or gifts and enter into public-private partnerships (Part G); to amend the environmental conservation law, in relation to prohibiting plastic carryout bags (Part H); to amend the environmental conservation law, the transportation corporations law and the navigation law, in relation to infrastructure and vessels associated with the production of oil or natural gas in federal waters (Part I); to amend the environmental conservation law, in relation to freshwater wetlands maps and tidal wetlands boundary maps (Part J); to amend the environmental conservation law and the public health law, in relation to the disclosure of cleansing products, labeling of consumer products, and requiring manufacturer disclosure of the ingredients in personal care products (Part K); to amend the banking law, in relation to student loan servicers (Part L); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the submission of reports and in relation to extending the effective-

ness thereof; to authorize the commissioner of motor vehicles to approve demonstrations and tests consisting of the operation of motor vehicles equipped with autonomous vehicle technology; and to repeal section 1226 of the vehicle and traffic law relating thereto (Part M); to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the provisions thereof (Part N); to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter and to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee (Part O); to amend vehicle and traffic law, in relation to locally authorized scooters and locally authorized motorcycles (Part P); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part Q); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the effectiveness thereof (Part R); to amend the highway law and the transportation corporations law, in relation to fiber optic utilities (Part S); to amend the

transportation law, the vehicle and traffic law and the penal law, in relation to motor carrier safety (Part T); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues; and providing for the repeal of such provisions upon expiration thereof (Part U); to amend the state finance law and the public authorities law, in relation to requiring state agencies and authorities to enter contracts only with service providers that adhere to net neutrality principles (Part V); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); to amend the energy law, the public service law, the public authorities law and the environmental conservation law, in relation to establishing the "climate leadership act" (Part X); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); to amend the executive law, the public buildings law, the state finance law, the public authorities law, and the penal law, in relation to the reauthorization of the minority and women-owned

business enterprise program and to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part AA); to amend the vehicle and traffic law and the public authorities law, in relation to establishing a congestion tolling program in the city of New York; and to amend the public officers law, in relation to confidentiality of certain public records (Part BB); to amend the vehicle and traffic law, in relation to photo speed violation monitoring systems in school speed zones in the city of New York; to amend chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, in relation to the effectiveness thereof; and to amend chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million or more a demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices, in relation to the effectiveness thereof (Part CC); establishing the "Gateway Development Commission Act"; and to amend the transportation law, in relation to creating the gateway development commission (Part DD); to amend the public authorities law, in relation to allowing the assignment, transfer, sharing or consolidating of powers, functions or activities of the metropolitan transportation authority (Part EE); to amend the vehicle and traffic law, the public authorities law, the tax law and the state finance law, in relation to providing certain metropolitan transportation commuter district supplemental taxes, surcharges and

fees to the metropolitan transportation authority without appropriation (Part FF); to amend the vehicle and traffic law, in relation to removing caps on automated enforcement cameras for bus lanes, authorizing automated enforcement cameras for stopping, standing, parking and turning limitations within the congestion toll zone and along designated bus corridors, and increasing penalties and creating a graduated schedule of fines for repeat offenders; and to amend part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, in relation to the effectiveness thereof (Part GG); to amend chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, in relation to extending certain provisions thereof applicable to the resolution of labor disputes (Part HH); to amend the penal law and the vehicle and traffic law, in relation to classifying the assault of airport workers, metropolitan transportation authority bus operators and division of transportation inspectors as second degree assault (Part II); to amend the public authorities law, in relation to the operation of cashless tolling programs (Part JJ); to amend the public authorities law, in relation to authorizing the New York power authority to provide energy-related projects, programs and services to any of its power customers, and to take actions necessary to develop electric vehicle charging stations (Part KK); to amend the public authorities law, in relation to the provision of renewable power and energy by the Power Authority of the State of New York (Part LL); to amend the state finance law, in relation to establishing the parks retail stores fund, and the golf fund, as enterprise funds (Part MM);

to amend the public authorities law, in relation to allowing the New York state olympic regional development authority to enter into contracts or agreements containing indemnity provisions in order to host olympic or other national or international games or events (Part NN); and to amend the highway law, in relation to making a technical correction to authorization of an airport mass transit project at LaGuardia airport (Part OO)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2019-2020
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through OO. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part,
7 including the effective date of the Part, which makes reference to a
8 section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. Paragraph (b) of subdivision 6 of section 1699-f of the
14 public authorities law, as added by chapter 83 of the laws of 1995, is
15 amended to read as follows:

16 (b) The financing of any project initiated on or after the effective
17 date of this section, the entirety of which the agency would be author-
18 ized to undertake by the provisions of the medical care facilities
19 finance agency act prior to such effective date, shall be governed by
20 such act.

21 § 2. This act shall take effect immediately.

22 PART B

1 Section 1. Paragraph (b) of subdivision 2 of section 1676 of the
2 public authorities law is amended by adding two new undesignated para-
3 graphs to read as follows:

4 The office of parks, recreation and historic preservation.

5 The department of environmental conservation.

6 § 2. This act shall take effect immediately.

7 PART C

8 Section 1. Subdivision 25 of section 1678 of the public authorities
9 law is amended by adding two new paragraphs (e) and (f) to read as
10 follows:

11 (e) Notwithstanding any other provision of law to the contrary,
12 including but not limited to title five-A of article nine of this chap-
13 ter, the Atlantic Avenue Healthcare Property Holding Corporation is
14 hereby authorized and empowered to sell, exchange, lease, transfer and
15 convey certain real property located at 483-503 Herkimer Street,
16 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue,
17 all in Brooklyn, New York as directed by the commissioner of New York
18 state division of homes and community renewal, upon such terms and
19 conditions as such commissioner may fix and determine.

20 Such sale, exchange, lease, transfer and conveyance shall be consist-
21 ent with and made pursuant to a plan to increase access and quality of
22 health care services and preventative care and create affordable housing
23 approved by the commissioner of New York state division of homes and
24 community renewal, the commissioner of health and the director of the
25 division of the budget to transform the Central Brooklyn region. Such
26 plan may include, but shall not be limited to, initiatives intended to

1 increase access to open spaces and healthy food, transform health care
2 by increasing access and quality of health care services and preventa-
3 tive care, create affordable housing, create jobs, improve youth devel-
4 opment, and prevent community violence.

5 Notwithstanding the foregoing, no such sale, exchange, transfer, lease
6 or conveyance shall be permitted pursuant to this section, unless in the
7 opinion of bond counsel to the authority, such sale, exchange, transfer,
8 lease or conveyance does not impair the tax-exempt status of any
9 outstanding bonds or other obligations, if any, issued by the authority
10 to finance or refinance the subject property. For the purposes of such
11 opinion, the valuation of such property being sold, exchanged, trans-
12 ferred, leased or conveyed may reflect the terms and conditions set
13 forth in the plan.

14 (f) The description in paragraph (e) of this subdivision of the lands
15 to be transferred and conveyed is not intended to be a legal
16 description, but is intended only to identify the premises to be
17 conveyed. As a condition of transfer and conveyance, the Atlantic Avenue
18 Healthcare Property Holding Corporation shall receive an accurate survey
19 and description of the lands generally described in paragraph (e) of
20 this subdivision, which may be used in the conveyance thereof.

21 § 2. This act shall take effect immediately; provided, however, that
22 the amendments to subdivision 25 of section 1678 of the public authori-
23 ties law made by section one of this act shall survive the expiration
24 and reversion of such subdivision as provided by section 2 of chapter
25 584 of the laws of 2011, as amended.

1 Section 1. Paragraph (i) and the opening paragraph of paragraph (ii)
2 of subdivision (a) of section 2 of part F of chapter 60 of the laws of
3 2015, constituting the infrastructure investment act, as amended by
4 section 1 of part RRR of chapter 59 of the laws of 2017, are amended to
5 read as follows:

6 (i) "authorized state entity" shall mean the New York state thruway
7 authority, the department of transportation, the office of parks, recre-
8 ation and historic preservation, the department of environmental conser-
9 vation, the dormitory authority, the urban development corporation, the
10 office of general services, the department of health, and the New York
11 state olympic regional development authority and the New York state
12 bridge authority.

13 Notwithstanding the provisions of subdivision 26 of section 1678 of
14 the public authorities law, section 8 of the public buildings law,
15 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
16 amended, section 103 of the general municipal law, and the provisions of
17 any other law to the contrary, the term "authorized state entity" shall
18 also refer to only those agencies or authorities identified below solely
19 in connection with the following authorized projects, provided that such
20 an authorized state entity may utilize the alternative delivery method
21 referred to as design-build contracts solely in connection with the
22 following authorized projects should the total cost of each such project
23 not be less than [five] one million two hundred thousand dollars
24 [(\$5,000,000)] (\$1,200,000):

25 § 2. Subdivision (e) of section 2 of part F of chapter 60 of the laws
26 of 2015, constituting the infrastructure investment act, is amended to
27 read as follows:

1 (e) "design-build [contract]" shall mean a [contract] project delivery
2 method for the design and construction of a capital project with a
3 single entity, which may be a team comprised of separate entities.

4 § 3. Section 2 of part F of chapter 60 of the laws of 2015, constitut-
5 ing the infrastructure investment act is amended by adding three new
6 subdivisions (g), (h) and (i) to read as follows:

7 (g) "alternative project delivery contract" shall mean any project
8 delivery method, including but not limited to construction manager
9 build, construction manager at risk, and design-build, pursuant to which
10 one or more contracts for the provision of design or construction
11 services are awarded pursuant to an open and competitive method of
12 procurement.

13 (h) "construction manager at risk" shall mean a project delivery meth-
14 od whereby (i) a construction manager serves as part of a team in
15 conjunction with the owner in the design phase of the project; (ii)
16 during the construction phase, acts as general contractor for agreed
17 upon compensation as set forth in the construction manager at risk
18 agreement; and (iii) assumes the risk of construction costs exceeding an
19 amount specified in the construction manager at risk agreement.

20 (i) "construction manager build" shall mean a project delivery method
21 whereby a construction manager: (i) serves as part of a team in conjunc-
22 tion with the owner in the design phase of the project; (ii) under the
23 oversight of the owner acts as the single source of responsibility to
24 bid, select and hold construction contracts on behalf of the owner
25 during the construction phase; and (iii) manages the construction
26 project on behalf of the owner.

1 § 4. Section 3 of part F of chapter 60 of the laws of 2015, constitut-
2 ing the infrastructure investment act, as amended by section 3 of part
3 RRR of chapter 59 of the laws of 2017, is amended to read as follows:

4 § 3. Notwithstanding the provisions of section 38 of the highway law,
5 section 136-a of the state finance law, [section] sections 359, 1678,
6 1680, 1680-a and 2879-a of the public authorities law, [section]
7 sections 407-a, 6281 and 7210 of the education law, sections 8 and 9 of
8 the public buildings law, section 11 of chapter 795 of the laws of 1967,
9 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
10 amended, section 11 of section 1 of chapter 174 of the laws of 1968, as
11 amended, section 29 of chapter 337 of the laws of 1972, section 21 of
12 chapter 464 of the laws of 1972, section 103 of the general municipal
13 law, and the provisions of any other law to the contrary, and in
14 conformity with the requirements of this act, an authorized state entity
15 may utilize [the] alternative project delivery [method referred to as
16 design-build] contracts, in consultation with relevant local labor
17 organizations and construction industry, for capital projects located in
18 the state and related to [the state's] physical infrastructure, includ-
19 ing, but not limited to, [the state's] buildings and appurtenant struc-
20 tures, highways, bridges, dams, flood control projects, canals, and
21 parks, including, but not limited to, to repair damage caused by natural
22 disaster, to correct health and safety defects, to comply with federal
23 and state laws, standards, and regulations, to extend the useful life of
24 or replace [the state's] buildings and appurtenant structures, highways,
25 bridges, dams, flood control projects, canals, and parks or to improve
26 or add to [the state's] buildings and appurtenant structures, highways,
27 bridges, dams, flood control projects, canals, and parks; provided that
28 for the contracts executed by the department of transportation, the

1 office of parks, recreation and historic preservation, or the department
2 of environmental conservation, the total cost of each such project shall
3 not be less than ten million dollars (\$10,000,000).

4 § 5. Section 4 of part F of chapter 60 of the laws of 2015, constitut-
5 ing the infrastructure investment act, as amended by section 4 of part
6 RRR of chapter 59 of the laws of 2017, is amended to read as follows:

7 § 4. An entity selected by an authorized state entity to enter into [a
8 design-build contract shall] an alternative project delivery contract
9 may be selected through a two-step method, as follows:

10 (a) Step one. Generation of a list of entities that have demonstrated
11 the general capability to perform the [design-build] alternative project
12 delivery contract. Such list shall consist of a specified number of
13 entities, as determined by an authorized state entity, and shall be
14 generated based upon the authorized state entity's review of responses
15 to a publicly advertised request for qualifications. The authorized
16 state entity's request for qualifications shall include a general
17 description of the project, the maximum number of entities to be
18 included on the list, the selection criteria to be used and the relative
19 weight of each criteria in generating the list. Such selection criteria
20 shall include the qualifications and experience of the [design and
21 construction team] entity or team of entities, organization, demon-
22 strated responsibility, ability of the team or of a member or members of
23 the team to comply with applicable requirements, including the
24 provisions of articles 145, 147 and 148 of the education law, past
25 record of compliance with the labor law, and such other qualifications
26 the authorized state entity deems appropriate which may include but are
27 not limited to project understanding, financial capability and record of
28 past performance. The authorized state entity shall evaluate and rate

1 all entities responding to the request for qualifications. Based upon
2 such ratings, the authorized state entity shall list the entities that
3 shall receive a request for proposals in accordance with subdivision (b)
4 of this section. To the extent consistent with applicable federal law,
5 the authorized state entity shall consider, when awarding any contract
6 pursuant to this section, the participation of: (i) firms certified
7 pursuant to article 15-A of the executive law as minority or women-owned
8 businesses and the ability of other businesses under consideration to
9 work with minority and women-owned businesses so as to promote and
10 assist participation by such businesses; [and] (ii) small business
11 concerns identified pursuant to subdivision (b) of section 139-g of the
12 state finance law[.]; and (iii) firms certified pursuant to article 17-B
13 of the executive law as service-disabled veteran-owned businesses and
14 the ability of other businesses under consideration to work with
15 service-disabled veteran-owned businesses so as to promote and assist
16 participation by such businesses.

17 (b) Step two. Selection of the proposal which is the best value to the
18 authorized state entity. The authorized state entity shall issue a
19 request for proposals to the entities listed pursuant to subdivision (a)
20 of this section. If such an entity consists of a team of separate enti-
21 ties, the entities that comprise such a team must remain unchanged from
22 the entity as listed pursuant to subdivision (a) of this section unless
23 otherwise approved by the authorized state entity. The request for
24 proposals shall set forth the project's scope of work, and other
25 requirements, as determined by the authorized state entity. The request
26 for proposals shall specify the criteria to be used to evaluate the
27 responses and the relative weight of each such criteria. Such criteria
28 shall include the proposal's cost, the quality of the proposal's

1 solution, the qualifications and experience of the [design-build] enti-
2 ty, and other factors deemed pertinent by the authorized state entity,
3 which may include, but shall not be limited to, the proposal's project
4 implementation, ability to complete the work in a timely and satisfac-
5 tory manner, maintenance costs of the completed project, maintenance of
6 traffic approach, and community impact. Any contract awarded pursuant to
7 this act shall be awarded to a responsive and responsible entity that
8 submits the proposal, which, in consideration of these and other speci-
9 fied criteria deemed pertinent to the project, offers the best value to
10 the authorized state entity, as determined by the authorized state enti-
11 ty. The request for proposals shall include a statement that entities
12 shall designate in writing those portions of the proposal that contain
13 trade secrets or other proprietary information that are to remain confi-
14 dential; that the material designated as confidential shall be readily
15 separable from the entity's proposal. Nothing herein shall be construed
16 to prohibit the authorized entity from negotiating final contract terms
17 and conditions including cost. All proposals submitted shall be scored
18 according to the criteria listed in the request for proposals and such
19 final scores shall be published on the authorized state entity's
20 website.

21 § 6. Section 7 of part F of chapter 60 of the laws of 2015, constitut-
22 ing the infrastructure investment act, is amended to read as follows:

23 § 7. If otherwise applicable, capital projects undertaken by the
24 authorized state entity pursuant to this act shall be subject to section
25 135 of the state finance law, section 101 of the general municipal law
26 and section 222 of the labor law; provided, however, that an authorized
27 entity may fulfill its obligations under section 135 of the state
28 finance law or section 101 of the general municipal law by requiring the

1 contractor to prepare separate specifications in accordance with section
2 135 of the state finance law or section 101 of the general municipal law
3 as the case may be.

4 § 7. Section 8 of part F of chapter 60 of the laws of 2015, constitut-
5 ing the infrastructure investment act, is amended to read as follows:

6 § 8. Each contract entered into by the authorized state entity pursu-
7 ant to this section shall comply with the objectives and goals of minor-
8 ity and women-owned business enterprises pursuant to article 15-A of the
9 executive law and of service-disabled veteran-owned business enterprises
10 pursuant to article 17-B of the executive law or, for projects receiving
11 federal aid, shall comply with applicable federal requirements for
12 disadvantaged business enterprises.

13 § 8. Section 11 of part F of chapter 60 of the laws of 2015, consti-
14 tuting the infrastructure investment act, is amended to read as follows:

15 § 11. The submission of a proposal or responses or the execution of [a
16 design-build] an alternative project delivery contract pursuant to this
17 act shall not be construed to be a violation of section 6512 of the
18 education law.

19 § 9. Section 13 of part F of chapter 60 of the laws of 2015, consti-
20 tuting the infrastructure investment act, as amended by section 11 of
21 part RRR of chapter 59 of the laws of 2017, is amended to read as
22 follows:

23 § 13. Alternative construction awarding processes. (a) Notwithstand-
24 ing the provisions of any other law to the contrary, the authorized
25 state entity may award [a construction] an alternative project delivery
26 contract:

27 1. To the [contractor] entity offering the best value; or

1 2. Utilizing a cost-plus not to exceed guaranteed maximum price form
2 of contract in which the authorized state entity shall be entitled to
3 monitor and audit all project costs. In establishing the schedule and
4 process for determining a guaranteed maximum price, the contract between
5 the authorized state entity and the contractor shall:

6 (i) describe the scope of the work and the cost of performing such
7 work;

8 (ii) include a detailed line item cost breakdown;

9 (iii) include a list of all drawings, specifications and other infor-
10 mation on which the guaranteed maximum price is based;

11 (iv) include the dates for substantial and final completion on which
12 the guaranteed maximum price is based; and

13 (v) include a schedule of unit prices; or

14 3. Utilizing a lump sum contract in which the [contractor] entity
15 agrees to accept a set dollar amount for a contract which comprises a
16 single bid without providing a cost breakdown for all costs such as for
17 equipment, labor, materials, as well as such [contractor's] entity's
18 profit for completing all items of work comprising the project.

19 4. The contract may include a combination of elements of the contract
20 types listed in this section and may provide for professional services
21 on a fee-for-service basis.

22 (b) Capital projects undertaken by an authorized state entity may
23 include an incentive clause in the contract for various performance
24 objectives, but the incentive clause shall not include an incentive that
25 exceeds the quantifiable value of the benefit received by the authorized
26 state entity. [The] Notwithstanding the provisions of sections 136 and
27 137 of the state finance law, the authorized state entity shall [estab-

1 lish] require such performance and payment bonds, bonds or other form of
2 undertaking, as it deems necessary.

3 § 10. Part F of chapter 60 of the laws of 2015, constituting the
4 infrastructure investment act is amended by adding a new section 15-a to
5 read as follows:

6 15-a. Any contract awarded pursuant to this act shall be deemed to be
7 awarded pursuant to a competitive procurement for purposes of section
8 2879-a of the public authorities law.

9 § 11. Section 17 of part F of chapter 60 of the laws of 2015, consti-
10 tuting the infrastructure investment act, as amended by section 14 of
11 part RRR of chapter 59 of the laws of 2017, is amended to read as
12 follows:

13 § 17. This act shall take effect immediately [and shall expire and be
14 deemed repealed 4 years after such date, provided that, projects with
15 requests for qualifications issued prior to such repeal shall be permit-
16 ted to continue under this act notwithstanding such repeal].

17 § 12. This act shall take effect immediately.

18 PART E

19 Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of
20 section 27-1905 of the environmental conservation law, as amended by
21 section 1 of part T of chapter 58 of the laws of 2016, are amended to
22 read as follows:

23 1. [Until December thirty-first, two thousand nineteen, accept] Accept
24 from a customer, waste tires of approximately the same size and in a
25 quantity equal to the number of new tires purchased or installed by the
26 customer; and

1 [Until December thirty-first, two thousand nineteen, post] Post writ-
2 ten notice in a prominent location, which must be at least eight and
3 one-half inches by fourteen inches in size and contain the following
4 language:

5 § 2. Subdivisions 1, 2, 3, and paragraph (a) of subdivision 6 of
6 section 27-1913 of the environmental conservation law, as amended by
7 section 2 of part T of chapter 58 of the laws of 2016, are amended to
8 read as follows:

9 1. [Until December thirty-first, two thousand nineteen, a] A waste
10 tire management and recycling fee of two dollars and fifty cents shall
11 be charged on each new tire sold. The fee shall be paid by the purchaser
12 to the tire service at the time the new tire or new motor vehicle is
13 purchased.

14 The waste tire management and recycling fee does not apply to:

15 (a) recapped or resold tires;

16 (b) mail-order sales; or

17 (c) the sale of new motor vehicle tires to a person solely for the
18 purpose of resale provided the subsequent retail sale in this state is
19 subject to such fee.

20 2. [Until December thirty-first, two thousand nineteen, the] The tire
21 service shall collect the waste tire management and recycling fee from
22 the purchaser at the time of the sale and shall remit such fee to the
23 department of taxation and finance with the quarterly report filed
24 pursuant to subdivision three of this section.

25 (a) The fee imposed shall be stated as an invoice item separate and
26 distinct from the selling price of the tire.

27 (b) The tire service shall be entitled to retain an allowance of twen-
28 ty-five cents per tire from fees collected.

1 3. [Until March thirty-first, two thousand twenty, each] Each tire
2 service maintaining a place of business in this state shall make a
3 return to the department of taxation and finance on a quarterly basis,
4 with the return for December, January, and February being due on or
5 before the immediately following March thirty-first; the return for
6 March, April, and May being due on or before the immediately following
7 June thirtieth; the return for June, July, and August being due on or
8 before the immediately following September thirtieth; and the return for
9 September, October, and November being due on or before the immediately
10 following December thirty-first.

11 (a) Each return shall include:

12 (i) the name of the tire service;

13 (ii) the address of the tire service's principal place of business and
14 the address of the principal place of business (if that is a different
15 address) from which the tire service engages in the business of making
16 retail sales of tires;

17 (iii) the name and signature of the person preparing the return;

18 (iv) the total number of new tires sold at retail for the preceding
19 quarter and the total number of new tires placed on motor vehicles prior
20 to original retail sale;

21 (v) the amount of waste tire management and recycling fees due; and

22 (vi) such other reasonable information as the department of taxation
23 and finance may require.

24 (b) Copies of each report shall be retained by the tire service for
25 three years.

26 If a tire service ceases business, it shall file a final return and
27 remit all fees due under this title with the department of taxation and
28 finance not more than one month after discontinuing that business.

1 (a) [Until December thirty-first, two thousand nineteen, any] Any
2 additional waste tire management and recycling costs of the tire service
3 in excess of the amount authorized to be retained pursuant to paragraph
4 (b) of subdivision two of this section may be included in the published
5 selling price of the new tire, or charged as a separate per-tire charge
6 on each new tire sold. When such costs are charged as a separate per-
7 tire charge: (i) such charge shall be stated as an invoice item separate
8 and distinct from the selling price of the tire; (ii) the invoice shall
9 state that the charge is imposed at the sole discretion of the tire
10 service; and (iii) the amount of such charge shall reflect the actual
11 cost to the tire service for the management and recycling of waste tires
12 accepted by the tire service pursuant to section 27-1905 of this title,
13 provided however, that in no event shall such charge exceed two dollars
14 and fifty cents on each new tire sold.

15 § 3. Paragraph (b) and (c) of subdivision 1 of section 27-1915 of the
16 environmental conservation law, as amended by section 5 of part DD of
17 chapter 59 of the laws of 2010, are amended and a new paragraph (d) is
18 added to read as follows:

19 (b) abatement of noncompliant waste tire stockpiles; [and]

20 (c) administration and enforcement of the requirements of this arti-
21 cle, exclusive of titles thirteen and fourteen[.]; and

22 (d) conducting an updated market analysis of outlets for waste tire
23 utilization including recycling and energy recovery opportunities.

24 § 4. This act shall take effect immediately.

1 Section 1. Subdivisions 1, 2-a and 5-a of section 27-1003 of the envi-
2 ronmental conservation law, subdivision 1 as amended by section 2 of
3 part SS of chapter 59 of the laws of 2009, subdivision 2-a as amended by
4 section 2 of part F of chapter 58 of the laws of 2013, and subdivision
5 5-a as added by section 3 of part SS of chapter 59 of the laws of 2009,
6 are amended to read as follows:

7 1. "Beverage" means [carbonated soft drinks, water, beer, other malt
8 beverages and a wine product as defined in subdivision thirty-six-a of
9 section three of the alcoholic beverage control law. "Malt beverages"
10 means any beverage obtained by the alcoholic fermentation or infusion or
11 decoction of barley, malt, hops, or other wholesome grain or cereal and
12 water including, but not limited to ale, stout or malt liquor. "Water"
13 means any beverage identified through the use of letters, words or
14 symbols on its product label as a type of water, including any flavored
15 water or nutritionally enhanced water, provided, however, that "water"
16 does not include any beverage identified as a type of water to which a
17 sugar has been added] all carbonated and noncarbonated drinks in liquid
18 form and intended for internal human consumption.

19 The term "beverage" shall not include:

20 a. milk and dairy derived products. "Milk" means whole milk, skim
21 milk, low-fat milk, cream, cultured milk, yogurt or any combination of
22 those products. The term "dairy derived products" includes any product
23 of which more than fifty percent of the ingredients are milk, milk fat,
24 cultured milk or yogurt;

25 b. rice milk, soy milk, nut milk or other milk substitute;

26 c. infant formula;

1 d. a liquid that is a syrup, in a concentrated form, or typically
2 added at less than five percent as a minor flavoring ingredient in food
3 or drink, such as extracts, cooking additives, sauces or condiments;

4 e. a liquid that is a medical prescription or over-the-counter drug
5 regulated by the United States Food and Drug Administration and consumed
6 for medicinal purposes only;

7 f. a liquid that is (i) regulated as a dietary supplement by the
8 United States Food and Drug Administration except one that is designed,
9 marketed and/or intended to be consumed as a beverage such as a sports
10 or hydration drink, or (ii) designed, marketed and/or intended to be
11 consumed as a meal or meal substitute as part of a weight loss program,
12 such as a diet shake;

13 g. products that are traditionally frozen at the time of sale;

14 h. products designed to be consumed in a frozen state;

15 i. instant drink powders;

16 j. seafood, meat or vegetable broths, or soups; and

17 k. alcoholic beverages other than: beer, malt beverages, and a wine
18 product as that term is defined in section three of the alcoholic bever-
19 age control law. "Malt beverages" means any beverage obtained by the
20 alcoholic fermentation or infusion or decoction of barley, malt, hops,
21 or other wholesome grain or cereal and water including, but not limited
22 to ale, stout or malt liquor.

23 2-a. "[Bottler] Beverage manufacturer" means a person, firm or corpo-
24 ration who:

25 a. bottles, cans or otherwise packages beverages in beverage contain-
26 ers [except that if]. If such packaging is for any other person, firm or
27 corporation having the right to bottle, can or otherwise package the
28 same brand of beverage, then such other person, firm or corporation

1 shall be considered to be the [bottler] beverage manufacturer for the
2 purposes of this title; or

3 b. imports filled beverage containers into the United States.

4 5-a. A "deposit initiator" for each beverage container for which a
5 refund value is established under section 27-1005 of this title means
6 the first person to charge a deposit on a filled beverage container. For
7 the purposes of charging such deposit the deposit initiator may be:

8 a. the [bottler of the beverage in such container] beverage manufac-
9 turer;

10 b. the distributor of such container if such distributor's purchase of
11 such container was not, directly or indirectly, from a registered depos-
12 it initiator;

13 c. [a dealer of such container who sells or offers for sale such
14 container in this state, whose purchase of such container was not,
15 directly or indirectly, from a registered deposit initiator] the brand
16 owner of a beverage; or

17 d. [an agent acting on behalf of a registered deposit initiator] any
18 other person as determined in rules or regulations promulgated by the
19 department.

20 § 2. The environmental conservation law is amended by adding a new
21 section 27-1004 to read as follows:

22 § 27-1004. Deposit initiators.

23 1. a. For a beverage container manufactured in the United States, the
24 deposit on each filled beverage container must be initiated by the
25 beverage manufacturer, except as otherwise provided in this section.

26 b. The first distributor of a beverage may choose to initiate the
27 deposit if all of the following apply:

1 (i) the manufacturer does not sell, offer for sale, or distribute such
2 beverage to any person in the state or to any other person that distrib-
3 utes such beverage into the state;

4 (ii) the first distributor has a geographically exclusive distributor-
5 ship for the sale of such beverage; and

6 (iii) the manufacturer and the first distributor have a written agree-
7 ment detailing the specific geographic areas in the state of such exclu-
8 sive distributorship.

9 c. The person, firm or corporation who bottles, cans or otherwise
10 packages beverages in beverage containers may initiate the deposit for a
11 brand owner for whose exclusive account beverage containers bearing the
12 brand name or trademark are bottled, canned or packaged if the person,
13 firm or corporation is the exclusive bottler and there is a written
14 agreement establishing who is responsible for the pick-up and redemption
15 of empty containers.

16 2. For a beverage manufactured outside the United States, the deposit
17 on each filled beverage container must be initiated by the person, firm,
18 or corporation who imports filled beverage containers into the United
19 States.

20 3. Except as provided by this section, or as provided in rules or
21 regulations promulgated by the department, no other person may initiate
22 a deposit on a beverage container sold in New York state.

23 4. For the purposes of this title, there shall be only one deposit
24 initiator for the same type of beverage container who is responsible for
25 the proper initiation of deposits on such beverage containers; the
26 collection of empty beverage containers; and the payment of all refund
27 values and handling fees on those containers for each geographic sales
28 area in New York state.

1 5. a. A deposit initiator shall initiate deposits on filled beverage
2 containers sold to any other person outside of this state who intends to
3 sell such beverage containers for use or consumption in this state, and
4 any such sales into the state by any such other person must be accurate-
5 ly reported to the original deposit initiator in writing.

6 b. A registered deposit initiator that sells beverage containers to
7 purchasers at locations outside of the state without initiating a depos-
8 it shall inform the purchaser in writing that such filled beverage
9 containers cannot be sold in New York state without a deposit being
10 initiated by the appropriate deposit initiator.

11 6. A deposit initiator may contract in writing with an agent to act on
12 behalf of the deposit initiator to pick up, process, or administer
13 payments of deposits and handling fees on empty beverage containers
14 accepted from redemption centers and dealers on behalf of the deposit
15 initiator. As used in this title, the term "deposit initiator" shall
16 also include the agent of the deposit initiator when referring to a
17 deposit initiator's pickup and redemption requirements. An agent of a
18 deposit initiator shall comply with all of the deposit initiator's pick-
19 up and redemption requirements, unless otherwise specified in their
20 written agreement with the deposit initiator.

21 § 3. Paragraph (a) of subdivision 1, subdivisions 3, 5, 7, 8, 9, 10,
22 11 and 12 of section 27-1007 of the environmental conservation law,
23 paragraph (a) of subdivision 1, subdivisions 3, 5, 7, 8, 9, 10 and 11 as
24 added by section 4 of part SS of chapter 59 of the laws of 2009, and
25 subdivision 12 as added by section 3 of part F of chapter 58 of the laws
26 of 2013, are amended and two new subdivisions 13 and 14 are added to
27 read as follows:

1 (a) A dealer shall accept at his or her place of business from a
2 redeemer any empty beverage containers of the design, shape, size,
3 color, composition and brand sold or offered for sale by the dealer, and
4 shall pay to the redeemer the refund value of each such beverage
5 container as established in section 27-1005 of this title. Redemptions
6 of refund value must be in legal tender, or a scrip or receipt from a
7 reverse vending machine, provided that the scrip or receipt can be
8 exchanged for legal tender for a period of not less than sixty days
9 without requiring the purchase of other goods. If the scrip or receipt
10 from a reverse vending machine expires, the expiration date must be
11 indicated on such scrip or receipt, or the dealer must post a conspicu-
12 ous sign indicating how many days a redeemer has to exchange the scrip
13 or receipt for legal tender. If notification of an expiration is not
14 provided, a dealer must redeem the full refund value indicated on any
15 legible scrip or receipt. The use or presence of a reverse vending
16 machine shall not relieve a dealer of any obligations imposed pursuant
17 to this section. If a dealer utilizes a reverse vending machine to
18 redeem containers, the dealer shall provide redemption of beverage
19 containers when the reverse vending machine is full, broken, under
20 repair or does not accept a type of beverage container sold or offered
21 for sale by such dealer and may not limit the hours or days of redemp-
22 tion except as provided by subdivision three of this section.

23 3. [On or after June first, two thousand nine, a] A dealer whose
24 primary business is the sale of food or beverages for consumption off-
25 premises and whose place of business is less than ten thousand square
26 feet in size may limit the number of empty beverage containers to be
27 accepted for redemption at the dealer's place of business to no less

1 than seventy-two containers per visit, per redeemer, per day[, provided
2 that:

3 (a) The dealer has a written agreement with a redemption center, be it
4 either at a fixed physical location within the same county and within
5 one-half mile of the dealer's place of business, or a mobile redemption
6 center, operated by a redemption center, that is located within one-
7 quarter mile of the dealer's place of business. The redemption center
8 must have a written agreement with the dealer to accept containers on
9 behalf of the dealer; and the redemption center's hours of operation
10 must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of
11 a mobile redemption center, the hours of operation must cover at least
12 four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The deal-
13 er must post a conspicuous, permanent sign, meeting the size and color
14 specifications set forth in subdivision two of this section, open to
15 public view, identifying the location and hours of operation of the
16 affiliated redemption center or mobile redemption center; and

17 (b) The dealer provides, at a minimum, a consecutive two hour period
18 between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up
19 to two hundred forty containers, per redeemer, per day, and posts a
20 conspicuous, permanent sign, meeting the size and color specifications
21 set forth in subdivision two of this section, open to public view, iden-
22 tifying those hours. The dealer may not change the hours of redemption
23 without first posting a thirty day notice; and

24 (c) The dealer's primary business is the sale of food or beverages for
25 consumption off-premises, and the dealer's place of business is less
26 than ten thousand square feet in size].

27 5. [A] The failure of a deposit [initiator's] initiator, a deposit
28 initiator's agent, or [distributor's failure] a distributor to pick up

1 empty beverage containers[, including containers processed in a reverse
2 vending machine,] from a redemption center, dealer or the operator of a
3 reverse vending machine, shall be a violation of this title.

4 7. A deposit initiator [on a brand] who initiates a deposit on a
5 beverage container shall accept from [a] any other deposit initiator or
6 distributor who [does] did not initiate [deposits] a deposit on that
7 [brand any empty] beverage [containers of that brand] any empty beverage
8 container accepted by the other deposit initiator or distributor from a
9 dealer or operator of a redemption center and shall reimburse the other
10 deposit initiator or distributor the refund value of each such beverage
11 container, as established by section 27-1005 of this title. In addition,
12 the deposit initiator shall reimburse such other deposit initiator or
13 distributor for each such beverage container the handling fee estab-
14 lished under subdivision six of this section that was paid by the
15 redeeming distributor or deposit initiator. Without limiting the rights
16 of the department or any person, firm or corporation under this subdivi-
17 sion or any other provision of this [section] title, a distributor shall
18 have a civil right of action to enforce this subdivision, including,
19 upon three days notice, the right to apply for temporary and preliminary
20 injunctive relief against continuing violations, and until arrangements
21 for collection and return of empty containers or reimbursement of [such]
22 the redeeming distributor for such deposits and handling fees are made.

23 8. It shall be the responsibility of the deposit initiator or distrib-
24 utor to provide to a dealer or redemption center a sufficient number of
25 bags, cartons, or other suitable containers, at no cost, for the packag-
26 ing, handling and pickup of empty beverage containers that are not
27 redeemed through a reverse vending machine. The bags, cartons, or
28 containers must be provided by the deposit initiator or distributor on a

1 schedule that allows the dealer or redemption center sufficient time to
2 sort the empty beverage containers prior to pick up by the deposit
3 initiator or distributor. In addition:

4 (a) When picking up empty beverage containers, a deposit initiator or
5 distributor shall not require a dealer or redemption center to load
6 their own bags, cartons or containers onto or into the deposit initi-
7 ator's or distributor's vehicle or vehicles or provide the staff or
8 equipment needed to do so. However, where pallets or skids, bags,
9 cartons or containers are readily movable only by means of a forklift or
10 similar equipment, a deposit initiator or distributor may require a
11 dealer or redemption center to move or load such items at no cost using
12 a forklift or similar equipment belonging to the dealer or redemption
13 center.

14 (b) For empty containers not processed through a reverse vending
15 machine, a dealer or redemption center may provide to a deposit initi-
16 ator or a distributor a signed, written statement attesting to the count
17 of the number of containers tendered for redemption. If such statement
18 is provided, the deposit initiator or distributor shall pay the redemp-
19 tion center or dealer all applicable refunds and handling fees for the
20 containers as indicated on such statement, unless discrepancies discov-
21 ered during the course of an audit are documented by the deposit initi-
22 ator or distributor and the reasons for the discrepancies are provided
23 in writing to the redemption center or dealer. A deposit initiator or
24 distributor [shall not] may require a redemption center or dealer's
25 count of empty containers to be [counted] audited at a location other
26 than the redemption center or dealer's place of business, if the redemp-
27 tion center or dealer refuses to allow an audit to be conducted at the
28 redemption center or dealer's place of business, if there is insuffi-

1 cient space to conduct an audit, or if an audit cannot be completed in a
2 safe, secure location protected from weather conditions. The dealer or
3 redemption center shall have the right to be present at [the count] an
4 audit conducted at a location other than the redemption center or deal-
5 er's place of business.

6 (c) A deposit initiator or distributor shall pick up empty beverage
7 containers from the dealer or redemption center at reasonable times and
8 intervals as determined in rules or regulations promulgated by the
9 department.

10 9. No person shall return or assist another to return to a dealer or
11 redemption center an empty beverage container for its refund value if
12 such container had previously been accepted for redemption by a dealer,
13 redemption center, [or] distributor, a deposit initiator who initiates
14 deposits on beverage containers of the same brand, or an agent of a
15 deposit initiator, or if such empty container was previously accepted by
16 a reverse vending machine.

17 10. A redeemer, dealer, distributor, deposit initiator or redemption
18 center shall not knowingly redeem an empty beverage container that was
19 not sold as a filled container in the state and on which a deposit was
20 never paid in New York state, and shall only pay deposits on the actual
21 number of empty beverage containers tendered and accepted for
22 redemption.

23 11. [Notwithstanding the provisions of subdivision two of section
24 27-1009 of this title, a deposit initiator or distributor shall accept
25 and redeem beverage containers as provided in this title, if the dealer
26 or operator of a redemption center shall have accepted and paid the
27 refund value of such beverage containers.] Once the refund value of an
28 empty beverage container has been paid by a deposit initiator who initi-

ates deposits on that type of beverage container, no person may knowingly accept that empty beverage container from, or give or sell it to, any person for the purpose of obtaining the refund value from any person.

12. No person shall [intentionally] program, tamper with, render inaccurate, or circumvent the proper operation of a reverse vending machine [to wrongfully elicit deposit monies when no valid, redeemable beverage container has been placed in and properly processed by the reverse vending machine].

13. No person shall transport empty beverage containers from out of state into New York state for the purpose of tendering such beverage containers for redemption.

14. a. Reverse vending machines shall be designed to prevent the fraudulent redemption of containers by utilizing the best available technology and provide an accurate report containing the following information:

(i) the number of containers placed in the reverse vending machine over a predetermined time period;

(ii) the product name of each beverage container placed in the reverse vending machine; and

(iii) the material type and size of each beverage container placed in the reverse vending machine.

b. All reverse vending machines shall be audited by an independent third-party auditor at least twice per year, but not within any four consecutive months.

c. A reverse vending machine, any report provided from such machine, and any audit of a reverse vending machine, are subject to inspection and audit by the department. The department of taxation and finance is authorized to audit any report from a reverse vending machine.

1 § 4. Section 27-1009 of the environmental conservation law, as amended
2 by section 4 of part F of chapter 58 of the laws of 2013, is amended to
3 read as follows:

4 § 27-1009. Refusal of acceptance.

5 1. A dealer or operator of a redemption center [may] shall refuse to
6 accept from a redeemer, and a deposit initiator or distributor [may]
7 shall refuse to accept from a dealer or operator of a redemption center
8 any empty beverage container which does not state thereon a refund value
9 as established by section 27-1005 and provided by section 27-1011 of
10 this title.

11 2. A dealer [or], operator of a redemption center, distributor, or
12 deposit initiator may also refuse to accept any broken bottle, any
13 corroded, crushed or dismembered container, or any beverage container
14 which [contains a significant amount of foreign material] is otherwise
15 altered so that it is rendered unredeemable, as determined in rules and
16 regulations to be promulgated by the commissioner. Such refusal must
17 occur at the time the beverage container is tendered for redemption.
18 Notwithstanding the foregoing, containers processed through a reverse
19 vending machine authorized by a distributor or deposit initiator, as
20 documented through reverse vending machine reconciliation statements or
21 other reasonable documentation, shall be accepted by a distributor or
22 deposit initiator.

23 § 5. Paragraph b of subdivision 1 of section 27-1011 of the environ-
24 mental conservation law, as amended by section 5 of part F of chapter 58
25 of the laws of 2013, is amended and a new subdivision 4 is added to read
26 as follows:

27 b. Such embossing or permanent imprinting on the beverage container
28 shall be the responsibility of the person, firm or corporation which

1 bottles, cans or otherwise fills or packages a beverage container or a
2 brand owner for whose exclusive account private label beverages are
3 bottled, canned or otherwise packaged; provided, however, that the duly
4 authorized agent of any such person, firm or corporation may indicate
5 such refund value by a label securely affixed on any beverage container
6 containing beverages imported into the United States. Private label
7 beverages shall be defined as beverages [purchased from a bottler] in
8 beverage containers bearing a brand name or trademark for sale [at
9 retail] or distribution, directly by the owner or licensee of such brand
10 name or trademark; or through [retail] dealers affiliated with such
11 owner or licensee by a cooperative [or], franchise, or other agreement.

12 4. No person shall sell in this state a drink container that indicates
13 a New York state refund value if the container is not a "beverage
14 container," as that term is defined by section 27-1003 of this title.

15 § 6. Subdivision 1, paragraphs a and b of subdivision 4, subdivisions
16 8 and 12 of section 27-1012 of the environmental conservation law,
17 subdivision 1, paragraphs a and b of subdivision 4 and subdivision 8 as
18 added by section 8 of part SS of chapter 59 of the laws of 2009, and
19 subdivision 12 as amended by section 6 of part F of chapter 58 of the
20 laws of 2013, are amended to read as follows:

21 1. Each deposit initiator shall deposit in a refund value account an
22 amount equal to the refund value initiated under section 27-1005 of this
23 title which is received with respect to each beverage container sold by
24 such deposit initiator. Such deposit initiator shall hold the amounts in
25 the refund value account in trust for the state. A refund value account
26 shall be an interest-bearing account established in a banking institu-
27 tion located in this state, the deposits in which are insured by an
28 agency of the federal government. Deposits of such amounts into the

1 refund value account shall be made not less frequently than every [five]
2 thirty business days. All interest, dividends and returns earned on the
3 refund value account shall be paid directly into said account. The
4 monies in such accounts shall be kept separate and apart from all other
5 monies in the possession of the deposit initiator. The commissioner of
6 taxation and finance may specify a system of accounts and records to be
7 maintained with respect to accounts established under this subdivision.

8 a. Quarterly payments. An amount equal to eighty percent of the
9 balance outstanding in the refund value account at the close of each
10 quarter shall be paid to the commissioner of taxation and finance at the
11 time the report provided for in subdivision three of this section is
12 required to be filed. However, a deposit initiator who initiates depos-
13 its on beverage containers with a universal product code and label
14 design that is unique to this state, or used only in this state and any
15 other states that have a law substantially similar to this title, shall
16 be entitled to pay an amount equal to only sixty percent of the balance
17 outstanding in the refund value account attributable to such beverage
18 containers at the close of each quarter to the commissioner of taxation
19 and finance at the time the report provided for in subdivision three of
20 this section is required to be filed. The commissioner of taxation and
21 finance may require that the payments be made electronically. The
22 remaining twenty percent of the balance outstanding at the close of each
23 quarter shall be the monies of the deposit initiator and may be with-
24 drawn from such account by the deposit initiator. If the provisions of
25 this section with respect to such account have not been fully complied
26 with, each deposit initiator shall pay to such commissioner at such
27 time, in lieu of the amount described in the preceding sentence, an
28 amount equal to the balance which would have been outstanding on such

1 date had such provisions been fully complied with. The commissioner of
2 taxation and finance may require that the payments be made electron-
3 ically.

4 b. Refund value account shortfall. In the event a deposit initiator
5 pays out more in refund values than it collects in deposits of refund
6 values during the course of a quarterly period as described in subdivi-
7 sion three of this section, the deposit initiator may apply to the
8 commissioner of taxation and finance for a refund of the amount of such
9 excess payment of refund values from sources other than the refund value
10 account, in the manner as provided by the commissioner of taxation and
11 finance. A deposit initiator must apply for a refund no later than
12 twelve months after the due date for filing the quarterly report for the
13 quarterly period for which the refund claim is made. No interest shall
14 be payable for any refund paid pursuant to this paragraph. However, a
15 deposit initiator who initiates deposits on beverage containers that do
16 not have a universal product code and label design that is unique to
17 this state or used only in this state and any other states that have a
18 law substantially similar to this title shall not be entitled to a
19 refund pursuant to this subdivision.

20 8. The commissioner of taxation and finance may require the mainte-
21 nance of such accounts, records or documents relating to the sale of
22 beverage containers, by any deposit initiator, [bottler] beverage
23 manufacturer, distributor, dealer or redemption center as such commis-
24 sioner may deem appropriate for the administration of this section. Such
25 commissioner may make examinations, including the conduct of facility
26 inspections during regular business hours, with respect to the accounts,
27 records or documents required to be maintained under this subdivision.
28 Such accounts, records and documents shall be preserved for a period of

1 three years, except that such commissioner may consent to their
2 destruction within that period or may require that they be kept longer.
3 Such accounts, records and documents may be kept within the meaning of
4 this subdivision when reproduced by any photographic, photostatic,
5 microfilm, micro-card, miniature photographic or other process which
6 actually reproduces the original accounts, records or documents.

7 12. a. Each deposit initiator shall provide a report to the department
8 describing all the types of beverage containers on which it initiates
9 deposits. The report shall include the product name, type of beverage,
10 size and composition of the beverage container, universal product code,
11 the ways in which the deposit initiator attempts to prevent the fraudu-
12 lent sale and redemption of brands of beverage containers it sells, and
13 any other information the department may require. Upon request, a depos-
14 it initiator shall also provide to the department a copy of the contain-
15 er label or a picture of any beverage container sold or offered for sale
16 in this state on which it initiates a deposit. Such information shall be
17 provided in a form as prescribed by the department. The department may
18 require that such forms be filed electronically.

19 b. A [bottler] beverage manufacturer may place on a beverage container
20 a universal product code or other distinctive marking that is specific
21 to the state or used only in the state and any other states with laws
22 substantially similar to this title as a means of preventing the sale or
23 redemption of beverage containers on which no deposit was initiated.

24 c. A [bottler] beverage manufacturer or deposit initiator shall notify
25 the department, in a form prescribed by the department, whenever a
26 beverage container or beverage container label is revised by altering
27 the universal product code, or whenever the container on which a
28 universal product code appears is changed in size, composition or glass

1 color, or whenever the container or container label on which a universal
2 product code appears is changed to include a universal product code that
3 is unique to the state or used only in the state and any other states
4 with laws substantially similar to this title.

5 d. The department may require the maintenance of such accounts,
6 records or documents relating to the sale and redemption of beverage
7 containers, by any deposit initiator, beverage manufacturer, distribu-
8 tor, dealer or redemption center as the department may deem appropriate
9 for the administration of this title. The department may make examina-
10 tions, including conducting facility inspections during regular busi-
11 ness hours, with respect to the accounts, records or documents required
12 to be maintained under this subdivision. Such accounts, records and
13 documents shall be preserved for a period of three years, except that
14 the department may consent to their destruction within that period or
15 may require that they be kept longer. Such accounts, records and docu-
16 ments may be kept within the meaning of this subdivision when reproduced
17 by any photographic, photostatic, microfilm, micro-card, miniature
18 photographic or other process which actually reproduces the original
19 accounts, records or documents.

20 § 7. Section 27-1014 of the environmental conservation law, as amended
21 by section 10 of part SS of chapter 59 of the laws of 2009, is amended
22 to read as follows:

23 § 27-1014. Authority to promulgate rules and regulations.

24 In addition to the authority of the commissioner, under sections
25 27-1007, 27-1009, 27-1011, 27-1012, and 27-1013 of this title, the
26 commissioner shall have the power to promulgate rules and regulations
27 necessary and appropriate for the administration of this title and to

1 prevent the fraudulent sale, labeling and redemption of beverage
2 containers in New York state.

3 § 8. Section 27-1015 of the environmental conservation law, as amended
4 by section 8 of part F of chapter 58 of the laws of 2013 and subdivision
5 5-a as added by section 9 of part F of chapter 58 of the laws of 2013,
6 is amended to read as follows:

7 § 27-1015. Violations.

8 1. Civil and administrative sanctions. a. Except as otherwise provided
9 in this section and section 27-1012 of this title, any person who [shall
10 violate] violates any [provision] of the provisions of, or fails to
11 perform a duty imposed by this title, or any rule or regulation promul-
12 gated pursuant thereto, or any term or condition of any registration or
13 permit issued pursuant thereto, or any final determination or order of
14 the commissioner made pursuant to this title shall be liable [to the
15 state of New York] for a civil penalty of not more than five hundred
16 dollars for each violation, and an additional civil penalty of not more
17 than five hundred dollars for each day during which each such violation
18 continues. Any civil penalty may be assessed by the commissioner follow-
19 ing a hearing or opportunity to be heard or by the court in any action
20 or proceeding pursuant to section 71-2727 of this chapter. In addition,
21 such person may by similar process be enjoined from continuing such
22 violation and any permit or registration issued to such person may be
23 revoked or suspended or a pending renewal application denied.

24 [2.] b. [Any] In addition to any penalties imposed by the department
25 of taxation and finance as provided in section 27-1012 of this title,
26 any distributor, deposit initiator, redemption center or dealer who
27 violates any provision of this title, [except as provided in section
28 27-1012 of this title,] or fails to perform a duty imposed by this

1 title, or any rule or regulation promulgated pursuant thereto, or any
2 term or condition of any registration or permit issued pursuant thereto,
3 or any final determination or order of the commissioner made pursuant to
4 this title shall be liable [to the state of New York] for a civil penal-
5 ty of not more than one thousand dollars for each violation, and an
6 additional civil penalty of not more than one thousand dollars for each
7 day during which each such violation continues. Any civil penalty may be
8 assessed following a hearing or opportunity to be heard, or by the court
9 in any action or proceeding pursuant to section 71-2727 of this chapter.
10 In addition, such deposit initiator or distributor may by similar proc-
11 ess be enjoined from continuing such violation and any permit or regis-
12 tration issued to such person may be revoked or suspended or a pending
13 renewal application denied.

14 2. Criminal sanctions. a. Any person who, having any of the culpable
15 mental states defined in section 15.05 of the penal law, violates any
16 provision of or who fails to perform any duty imposed by this title, or
17 any rule or regulation promulgated pursuant thereto, or any final deter-
18 mination or order of the commissioner made pursuant to this title shall
19 be guilty of a violation and, upon conviction, shall be punished by a
20 fine of not more than five hundred dollars for each violation; each day
21 on which such violation occurs shall constitute a separate violation;
22 and for each such violation the person shall be subject, upon
23 conviction, to imprisonment for not more than fifteen days or to a fine
24 of not more than five hundred dollars, or to both imprisonment and fine.

25 b. In addition to any penalties imposed by the department of taxation
26 and finance as provided in section 27-1012 of this title, any distribu-
27 tor or deposit initiator who, having any of the culpable mental states
28 defined in section 15.05 of the penal law, violates any provision of or

1 who fails to perform any duty imposed by this title, or any rule or
2 regulation promulgated pursuant thereto, or any final determination or
3 order of the commissioner made pursuant to this title shall be guilty of
4 a violation and, upon conviction, shall be punished by a fine of not
5 more than one thousand dollars for each violation; each day on which
6 such violation occurs shall constitute a separate violation; and for
7 each such violation the person shall be subject, upon conviction, to
8 imprisonment for not more than fifteen days or to a fine of not more
9 than one thousand dollars, or to both such imprisonment and such fine.

10 [3.] c. It shall be unlawful for [a distributor or deposit initiator]
11 any person, acting alone or aided by another, to return any empty bever-
12 age container to a dealer [or], redemption center, distributor or depos-
13 it initiator for its refund value if [the] a distributor or deposit
14 initiator had previously accepted such beverage container from any deal-
15 er or operator of a redemption center or if such container was previous-
16 ly accepted by a reverse vending machine. A violation of this [subdivi-
17 sion] paragraph shall be a misdemeanor punishable by a fine of not less
18 than five hundred dollars nor more than one thousand dollars and an
19 amount equal to two times the amount of money received as a result of
20 such violation, or imprisonment for not more than one year, or to both
21 such imprisonment and such fines.

22 d. In addition to any other penalty provided by this title, any person
23 who violates subdivision twelve of section 27-1007 of this title, or any
24 rule or regulation promulgated pursuant thereto, or any final determi-
25 nation or order of the commissioner made pursuant to this title shall be
26 guilty of a misdemeanor and, upon conviction, shall be punished by a
27 fine of not more than one thousand dollars per day of violation, or by

1 imprisonment for not more than one year, or by both such fine and impri-
2 sonment.

3 e. In addition to any other penalty provided by this title, any deal-
4 er, distributor or deposit initiator, who knowingly or intentionally
5 violates any provision of or who fails to perform any duty imposed by
6 section 27-1005 or 27-1012 of this title, or any rule or regulation
7 promulgated pursuant thereto, or any final determination or order of the
8 commissioner made pursuant to this title shall be guilty of a misdemea-
9 nor and, upon conviction, shall be punished by a fine of not more than
10 one thousand dollars per day of violation, or by imprisonment for not
11 more than one year, or by both such fine and imprisonment.

12 3. Any product sold or distributed in the state that is not in compli-
13 ance with the deposit initiator registration or the labeling require-
14 ments established in this title may be removed from sale by the depart-
15 ment and the attorney general.

16 4. Any person who [willfully] tenders to a dealer, distributor,
17 redemption center or deposit initiator more than forty-eight empty
18 beverage containers for which such person knows or should reasonably
19 know that no deposit was paid in New York state may be assessed [by the
20 department] a civil penalty of up to one hundred dollars for each
21 container or up to twenty-five thousand dollars for each such tender of
22 containers. At each location where a person tenders containers for
23 redemption, dealers and redemption centers must conspicuously display a
24 sign in letters that are at least one inch in height with the following
25 information: "WARNING: Persons tendering for redemption containers on
26 which a deposit was never paid in this state may be subject to a civil
27 penalty of up to one hundred dollars per container or up to twenty-five
28 thousand dollars for each such tender of containers." Any civil penalty

1 may be assessed by the commissioner following a hearing or opportunity
2 to be heard, or by the court in any action or proceeding pursuant to
3 section 71-2727 of this chapter. In addition, such person may by similar
4 process be enjoined from continuing such violation and any permit or
5 registration issued to such person may be revoked or suspended or a
6 pending renewal application denied.

7 5. a. The department, the department of agriculture and markets, the
8 department of taxation and finance and the attorney general are hereby
9 authorized to enforce the provisions of this title and all monies
10 collected shall be deposited to the credit of the environmental
11 protection fund established pursuant to section ninety-two-s of the
12 state finance law. In addition, the provisions of section 27-1005 of
13 this title and subdivisions one, two, three, four, five, ten and eleven
14 of section 27-1007 of this title may be enforced by a county, city, town
15 or village and the local legislative body thereof may adopt local laws,
16 ordinances or regulations consistent with this title providing for the
17 enforcement of such provisions.

18 b. In addition, without limiting the rights of the department, or any
19 person, firm or corporation under this subdivision or any other
20 provision of this section, a dealer, owner or operator of a redemption
21 center, distributor, or deposit initiator shall have a civil right of
22 action to enforce the provisions of section 27-1009 of this title and
23 subdivisions four, five, six, and eight of section 27-1007 of this
24 title.

25 5-a. The [city of New York, Nassau county and Suffolk county] county
26 district attorney offices of all counties in this state are entitled to
27 retain [twenty-five] fifty percent of all monies collected as criminal,

1 civil, and administrative fines or penalties pursuant to enforcement of
2 section 27-1005 of this chapter.

3 6. (a) Any person who willfully violates or directs another to violate
4 the requirements to collect or charge the refund value imposed by
5 section 27-1005 or paragraph a of subdivision nine of section 27-1012 of
6 this title on five thousand or more beverage containers in one or more
7 separate transactions within one year shall be guilty of a class B
8 misdemeanor.

9 (b) Any person, having previously been convicted of a violation of
10 paragraph (a) of this section within the past three years, who willfully
11 violates or directs another to violate the requirements to collect or
12 charge the refund value imposed by section 27-1005 or paragraph a of
13 subdivision nine of section 27-1012 of this title on five thousand or
14 more beverage containers in one or more separate transactions within one
15 year shall be guilty of a class A misdemeanor.

16 (c) Any person who willfully violates or directs another to violate
17 the requirements to collect or charge the refund value imposed by
18 section 27-1005 or paragraph a of subdivision nine of section 27-1012 of
19 this title on twenty thousand or more beverage containers in one or more
20 separate transactions within one year shall be guilty of a class E felo-
21 ny.

22 Nothing in this subdivision shall apply to common or contract carriers
23 or warehousemen while engaged in lawfully transporting or storing such
24 containers as merchandise, nor to any employee of such carrier or ware-
25 houseman acting within the scope of his or her employment. The above
26 notwithstanding, if a person is observed selling, offering for sale, or
27 otherwise distributing for compensation containers, of which the
28 requirements to collect or charge the refund value imposed by section

1 27-1005 or paragraph a of subdivision nine of section 27-1012 have not
2 been complied with, it shall be presumptive evidence that all such
3 containers in such person's possession are considered being possessed
4 with the intent to sell in New York state. It shall be an affirmative
5 defense to the above presumptive evidence clause that containers, as
6 described above, are not being possessed with the intent to sell in New
7 York state, as long as the entity maintains with the containers,
8 invoices, purchase orders, or other verifiable business records accepta-
9 ble to the department, which clearly document that the containers are
10 intended for sale to customers outside of New York state.

11 7. A violation of this title, except as otherwise provided in this
12 section and section 27-1012 of this title, shall be a public nuisance.

13 8. All officers and employees, designated by the commissioner, and all
14 police officers shall have power to seize as evidence without warrant
15 any beverage container, whether full or empty, and any container includ-
16 ing motor vehicles containing such containers, whenever they have cause
17 to believe it is possessed or transported in violation of law, or it
18 bears evidence of illegal sale or redemption, or it is possessed or
19 transported under circumstances making the possession or transportation
20 presumptive evidence of illegal sale or redemption.

21 9. If the defendant is held liable or found guilty in any prosecution,
22 civil or criminal, for a violation involving the illegal sale or intent
23 to sell beverages requiring a deposit or the illegal redemption of
24 returnable beverage containers in violation of any provisions of this
25 title, or if the defendant shall effect a civil compromise of any action
26 or cause of action in favor of the state arising out of such violation,
27 the defendant's interest in any and all beverages, beverage containers,
28 whether full or empty, and any vehicle or other conveyance used during

1 the commission of the violation of such provisions shall be forfeited to
2 the state.

3 § 9. Section 12 of part F of chapter 58 of the laws of 2013 amending
4 the environmental conservation law and the state finance law relating to
5 the "Cleaner, Greener NY Act of 2013", as amended by section 2-b of part
6 JJ of chapter 58 of the laws of 2017, is amended to read as follows:

7 § 12. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2013; provided,
9 however, that the amendments to subdivision 5-a of section 27-1015 of
10 the environmental conservation law, as added by section nine of this
11 act, shall expire and be deemed repealed on April 1, [2019] 2021.

12 § 10. This act shall take effect on the sixtieth day after it shall
13 have become a law, provided, however, that section one of this act shall
14 take effect on April 1, 2020, and provided further that section nine of
15 this act shall take effect immediately and shall be deemed to have been
16 in full force and effect on and after April 1, 2019; and provided
17 further that the amendments to subdivision 5-a of section 27-1015 of the
18 environmental conservation law made by section eight of this act shall
19 not affect the repeal of such subdivision and shall be deemed repealed
20 therewith.

21 PART G

22 Section 1. The environmental conservation law is amended by adding a
23 new section 3-0321 to read as follows:

24 § 3-0321. Conditional gifts, donations, capital improvements.

25 1. Notwithstanding the provisions of the state finance law, or any
26 other state law to the contrary, and subject to approval of the director

1 of the budget, the commissioner is authorized to accept a conditional
2 grant, gift, devise or bequest, either absolutely or in trust, from
3 persons and entities for the maintenance of any educational or recre-
4 ational facilities or for programs that promote the use or stewardship
5 of department owned lands; establish a special fund or funds consisting
6 of monies so acquired and administer such fund or funds; and expend such
7 monies in accordance with the terms and conditions of such grants,
8 gifts, devises or bequests.

9 2. Notwithstanding the provisions of the state finance law, or any
10 other state law to the contrary, the commissioner is authorized to:

11 (a) receive, hold and administer personal property and any income
12 thereof, acquired by grant, gift, devise or bequest, either absolutely
13 or in trust, for the maintenance of any educational or recreational
14 facilities or for programs that promote the use or stewardship of
15 department owned lands; establish a special fund or funds consisting of
16 monies so acquired and administer such fund or funds; and expend such
17 monies;

18 (b) enter into contracts or other agreements with private philanthrop-
19 ic interests or not-for-profit corporations to provide, either in whole
20 or in part, maintenance of any educational or recreational facilities or
21 programs that promote the use or stewardship of department owned lands
22 and authorize the use of department owned facilities or lands for such
23 private philanthropic interests or not-for-profit corporations to
24 conduct fund-raising activities for the support of such educational or
25 recreational facilities or programs;

26 (c) enter into cooperative agreements in furtherance of the depart-
27 ment's mission with persons or entities to promote outdoor recreational

1 activities and provide use of outdoor recreational equipment and oppor-
2 tunities for the public benefit on department owned lands; and

3 (d) seek investment from private philanthropic interest or not-for-
4 profit corporations for capital improvements at department owned facili-
5 ties.

6 3. The commissioner shall not accept any grant, gift, devise or
7 bequest from or enter into any contract or agreement authorized pursuant
8 to subdivision one of this section with persons or entities:

9 (a) named in a pending lawsuit by or against the department;

10 (b) under investigation by the department;

11 (c) with a permit or license application pending before the depart-
12 ment;

13 (d) engaged in settlement negotiations with the department regarding
14 any civil, criminal or administrative matter; or

15 (e) subject to a consent order issued by the department.

16 § 2. This act shall take effect immediately.

17 PART H

18 Section 1. Subdivisions 4 and 6 of section 27-2701 of the environ-
19 mental conservation law, as added by chapter 641 of the laws of 2008,
20 are amended and a new subdivision 8 is added to read as follows:

21 4. "Plastic carryout bag" means [a plastic carryout] any film plastic
22 bag provided [by a store] to a customer [at the point of sale] to be
23 used by the customer to carry tangible personal property, regardless of
24 whether any tangible personal property or service is sold to the custom-
25 er, and regardless of whether any tangible personal property or service
26 sold is exempt from tax under article twenty-eight of the tax law.

1 6. "Store" means a retail establishment that provides plastic or paper
2 carryout bags to its customers as a result of the sale of a product and
3 (a) has over ten thousand square feet of retail space, or (b) such
4 retail establishment is part of a chain engaged in the same general
5 field of business which operates five or more units of over five thou-
6 sand square feet of retail space in this state under common ownership
7 and management.

8 8. "Paper carryout bag" means a paper bag provided to a customer to be
9 used by the customer to carry tangible personal property, regardless of
10 whether any tangible personal property or service is sold to the custom-
11 er, and regardless of whether any tangible personal property or service
12 sold is exempt from tax under article twenty-eight of the tax law.

13 § 2. Section 27-2705 of the environmental conservation law, as added
14 by chapter 641 of the laws of 2008 and subdivisions 2, 3 and 4 as
15 amended by chapter 481 of the laws of 2014, is amended to read as
16 follows:

17 § 27-2705. Recycling program requirements.

18 An at-store recycling program provided by the operator of a store
19 shall require:

20 1. [a plastic carryout bag provided by the store to have printed or
21 displayed on the bag, in a manner visible to a consumer, the words
22 "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING". Provided, howev-
23 er, such store shall be allowed for one year from the effective date of
24 this subdivision to use its existing stock of plastic carryout bags. A
25 store may also apply to the commissioner for approval of an alternative
26 plastic bag recycling message. The commissioner shall approve or reject
27 the proposed message within forty-five days;

1 2.] a collection bin that is visible, easily accessible to the consum-
2 er, and clearly marked that the collection bin is available for the
3 purpose of collecting and recycling plastic carryout bags and film plas-
4 tic. This subdivision shall apply to stores not within an enclosed shop-
5 ping mall and stores of at least fifty thousand square feet within an
6 enclosed shopping mall. In the case of an enclosed shopping mall, the
7 owner of the enclosed mall shall place bins at reasonable intervals
8 throughout the enclosed mall area;

9 [3] 2. all plastic carryout bags and film plastic collected by the
10 store to be collected, transported and recycled along with any other
11 in-store plastic recycling, except for plastic bags that are not suffi-
12 ciently free of foreign material to enter the recycling stream. Plastic
13 carryout bags and film plastic collected by the store or the manufactur-
14 er, which are free of foreign material, shall not be disposed of in any
15 solid waste disposal facility permitted or authorized pursuant to title
16 seven of this article;

17 [4] 3. the store or its agent to maintain, for a minimum of three
18 years, records describing the collection, transport and recycling of
19 plastic carryout bags and film plastic collected by weight, provided
20 however that stores or its agents may weigh such bags, film plastic and
21 any other in-store plastic recycling at a regional collection center.
22 Such records shall be made available to the department upon request, to
23 demonstrate compliance with this title; and

24 [5] 4. the operator of the store to (a) make reusable bags available
25 to customers within the store for purchase, and (b) permit a reuseable
26 bag to be used in lieu of a plastic carryout bag or paper bag.

27 § 3. The environmental conservation law is amended by adding a new
28 section 27-2708 to read as follows:

1 § 27-2708. Plastic carryout bag prohibition.

2 1. Beginning March first, two thousand twenty, providing plastic
3 carryout bags to customers is prohibited except as otherwise provided by
4 the department pursuant to regulations.

5 2. This prohibition shall not apply to (a) plastic bags used solely to
6 contain or wrap uncooked meat, fish, or poultry; (b) plastic bags used
7 by a customer solely to package bulk items, such as fruits, vegetables,
8 nuts, grains, or candy; (c) plastic bags used solely to contain food
9 sliced to order; (d) plastic bags used solely to contain a newspaper for
10 delivery to a subscriber; (e) plastic bags sold in bulk; (f) plastic
11 bags prepackaged for sale to a customer including, but not limited to, a
12 trash bag and a food storage bag; (g) plastic garment bags; (h) plastic
13 bags provided by a restaurant, tavern or similar food service establish-
14 ment, as defined in the state sanitary code, to carry out or deliver
15 food; or (i) any other bag exempted by the department in regulations.

16 § 4. Section 27-2713 of the environmental conservation law, as amended
17 by chapter 481 of the laws of 2014, is amended to read as follows:

18 § 27-2713. Preemption.

19 Jurisdiction in all matters pertaining to plastic bag [and], film
20 plastic recycling, and fees or other measures associated with reducing
21 the use of single use bags is by this article vested exclusively in the
22 state. Any provision of any local law or ordinance, or any rule or regu-
23 lation promulgated thereto, governing the recycling of plastic bags and
24 film plastic and fees or other measures associated with single use bags
25 shall, upon the effective date of this title, be preempted. Provided
26 however, nothing in this section shall preclude a person from coordinat-
27 ing for recycling or reuse the collection of plastic bags or film plas-
28 tic and provided further that nothing in this section shall preclude any

1 local law or ordinance, or any rule or regulation promulgated thereto,
2 governing the establishment of fees on paper carryout bags.

3 § 5. This act shall take effect immediately.

4 PART I

5 Section 1. Paragraphs a and b of subdivision 1 of section 23-1101 of
6 the environmental conservation law, as added by chapter 722 of the laws
7 of 1977, are amended to read as follows:

8 a. The exploration, development and production of gas in state-owned
9 lands, except state park lands, the marine and coastal district as
10 defined in section 13-0103 of this chapter, and the lands under the
11 waters of Lake Ontario or along its shoreline; and

12 b. The exploration, development and production of oil in state-owned
13 lands, except state park lands, the marine and coastal district as
14 defined in section 13-0103 of this chapter, and the lands under the
15 waters of Lake Erie and Lake Ontario or along their shorelines.

16 § 2. The environmental conservation law is amended by adding a new
17 section 23-1105 to read as follows:

18 § 23-1105. Prohibition on state authorizations related to oil and
19 natural gas production in federal waters.

20 1. Neither the department nor the office of general services shall
21 enter into any new lease or other conveyance, or lease modification,
22 that authorizes or enables the installation of pipelines or support
23 facilities or infrastructure directly or indirectly associated with
24 exploration, development or production of oil or natural gas located in
25 the north Atlantic planning area.

1 2. For the purposes of this section, the following terms shall have
2 the following meanings:

3 a. "Development" means those activities taking place following the
4 discovery of commercially producible quantities of oil or natural gas,
5 including, platform construction, pipeline construction, and operation
6 of all onshore support facilities that are performed for the purposes of
7 ultimately producing oil or natural gas.

8 b. "Exploration" means any activity associated with the search of oil
9 or natural gas, including geophysical tests or the drilling of strati-
10 graphic wells.

11 c. "Federal waters" means those waters and submerged lands lying
12 seaward to the state waters of New York that appertain to the United
13 States and are subject to federal jurisdiction and control.

14 d. "North Atlantic planning area" means an area of federal waters in
15 the outer continental shelf totaling ninety-two million three hundred
16 twenty thousand acres adjacent to the coastal waters of Maine, New Hamp-
17 shire, Massachusetts, Rhode Island, Connecticut, New York, and New
18 Jersey.

19 e. "Production" means those activities that take place following the
20 successful completion of a well or field necessary for the removal of
21 oil or natural gas including field operations, transfer of resources to
22 shore, operation, monitoring, maintenance, and workover drilling.

23 3. The department is authorized to establish such rules and regu-
24 lations as it shall deem necessary to implement this section.

25 § 3. Section 80 of the transportation corporations law is amended to
26 read as follows:

27 § 80. [Definition] Definitions. 1. A pipe line corporation is a
28 corporation organized to construct and operate for public use, wholly

1 within or partly without this state, except in the city of New York,
2 lines of pipe for conveying or transporting therein petroleum, gas,
3 liquids or any products or property, or, except in such city, to main-
4 tain and operate for public use for which such purposes lines of pipe
5 already constructed.

6 2. For the purposes of this article, the terms "exploration", "devel-
7 opment", "production", "federal waters", and "north Atlantic planning
8 area" shall be defined as in section 23-1105 of the environmental
9 conservation law.

10 § 4. Section 83 of the transportation corporations law is amended to
11 read as follows:

12 § 83. Condemnation of real property. In case such corporation is
13 unable to agree for the purchase of any real property required for the
14 purposes of its incorporation, and its route in the county in which such
15 real property is situated has been finally located, it shall have the
16 right to acquire title thereto by condemnation, but such corporation
17 shall not locate its route or construct any line of pipe through or
18 under any building, dooryard, lawn, garden or orchard, except by the
19 consent of the owner thereof in writing duly acknowledged, nor through
20 any cemetery or burial ground, nor within one hundred feet of any build-
21 ing except where such line is authorized by public officers to be laid
22 across or upon any public highway, and shall not install pipelines that
23 support facilities or infrastructure associated with exploration, devel-
24 opment, or production of oil or natural gas in federal waters located in
25 the north Atlantic planning area. No such corporation shall lay or
26 construct its line of pipe through or under a street in any city, unless
27 it shall first obtain the consent of a majority of the owners of proper-

1 ty abutting on that portion of the street in which its pipe line is to
2 be laid. Such pipe line shall be laid with reasonable care and prudence.

3 § 5. Section 89 of the transportation corporations law, as amended by
4 chapter 60 of the laws of 1962, is amended to read as follows:

5 § 89. Over state lands. The commissioner of general services shall
6 have power to grant to any pipe line corporation any lands belonging to
7 the people of this state which may be required for the purposes of its
8 incorporation on such terms as may be agreed, or such corporation may
9 acquire title thereto by condemnation, except that no corporation may
10 condemn any lands for the purposes of the installation of pipelines or
11 support facilities or infrastructure associated with exploration, devel-
12 opment, or production of oil or natural gas in the north Atlantic plan-
13 ning area, and further excepting that no pipe line corporation may
14 condemn any canal lands abandoned pursuant to the provisions of article
15 four of the public lands law[, constituting chapter fifty of the laws of
16 nineteen hundred nine, as amended,] until after they have been sold and
17 conveyed in the manner provided by the public lands law. If any lands
18 owned by any county, city or town be required by such corporation for
19 such purposes, the county, city or town officers having charge of such
20 lands may grant them to the corporation upon terms and compensation
21 agreed upon.

22 § 6. Section 70 of the navigation law is amended by adding a new
23 subdivision 3 to read as follows:

24 3. No petroleum-bearing vessel transporting crude oil produced in the
25 north Atlantic planning area may enter or move upon the navigable waters
26 of the state or any tidewaters bordering on or lying within the bounda-
27 ries of Nassau and Suffolk counties. For purposes of this subdivision,

1 "north Atlantic planning area" shall be defined as in section 23-1105 of
2 the environmental conservation law.

3 § 7. Section 174 of the navigation law is amended by adding a new
4 subdivision 12 to read as follows:

5 12. (a) The department is prohibited from issuing or renewing any
6 license for any major facility storing or transferring petroleum
7 produced in the navigable waters of the state or any tidewaters border-
8 ing on and lying within the boundaries of Nassau and Suffolk counties.

9 (b) The department is prohibited from issuing or renewing any license
10 for any major facility intended to transfer or store crude oil from any
11 vessel which holds petroleum transported directly from any pipeline,
12 support facility, or infrastructure associated with the production of
13 crude oil from the north Atlantic planning area. For purposes of this
14 subdivision, "development", "federal waters", "north Atlantic planning
15 area" and "production" shall be defined as in section 23-1105 of the
16 environmental conservation law.

17 § 8. Severability clause. If any clause, sentence, paragraph, subdi-
18 vision, section or part of this act shall be adjudged by any court of
19 competent jurisdiction to be invalid, such judgment shall not affect,
20 impair, or invalidate the remainder thereof, but shall be confined in
21 its operation to the clause, sentence, paragraph, subdivision, section
22 or part thereof directly involved in the controversy in which such
23 judgement shall have been rendered. It is hereby declared to be in the
24 intent of the legislature that this act would have been enacted even if
25 such invalid provisions had not been included herein.

26 § 9. This act shall take effect immediately.

1 Section 1. Subdivisions 4 and 5 of section 24-0301 of the environ-
2 mental conservation law, as amended by chapter 16 of the laws of 2010,
3 are amended to read as follows:

4 4. Upon completion of the tentative freshwater wetlands map for a
5 particular area, the commissioner or his or her designated hearing offi-
6 cer shall hold a public hearing in that area in order to afford an
7 opportunity for any person to propose additions or deletions from such
8 map. The commissioner shall give notice of such hearing to each owner of
9 record as shown on the latest completed tax assessment rolls, of lands
10 designated as such wetlands as shown on said map and also to the chief
11 administrative officer and clerk of each local government within the
12 boundaries of which any such wetland or a portion thereof is located
13 and, in the case of a tentative freshwater wetlands map for any area
14 within the Adirondack park, to the Adirondack park agency, [by certified
15 mail] not less than thirty days prior to the date set for such hearing
16 and shall assure that a copy of the relevant map is available for public
17 inspection at a convenient location in such local government. The map
18 filed with a local government may, at the local government's request, be
19 either a physical copy of the tentative freshwater wetlands map, or, if
20 available, a digital file that represents it. The commissioner shall
21 also cause notice of such hearing to be published at least once, not
22 more than thirty days nor fewer than ten days before the date set for
23 such hearing, in at least two newspapers having general circulation in
24 the area where such wetlands are located. The commissioner may post on
25 the department's website a digital image that represents the tentative
26 freshwater wetlands map.

27 5. After considering the testimony given at such hearing and any other
28 facts which may be deemed pertinent, after considering the rights of

1 affected property owners and the ecological balance in accordance with
2 the policy and purposes of this article, and, in the case of wetlands or
3 portions thereof within the Adirondack park, after consulting with the
4 Adirondack park agency, the commissioner shall promulgate by order the
5 final freshwater wetlands map. Such order shall not be promulgated less
6 than sixty days from the date of the hearing required by subdivision
7 four of this section. A copy of the order, together with a copy of such
8 map or relevant portion thereof shall be filed in the office of the
9 clerk of each local government in which each such wetland or a portion
10 thereof is located and, in the case of a map for any area within the
11 Adirondack park, with the Adirondack park agency. The map filed with a
12 local government may, at the local government's request, be either a
13 physical copy of the final freshwater wetlands map, or, if available, a
14 digital file that represents it. The commissioner shall simultaneously
15 give notice of such order to each owner of lands, as shown on the latest
16 completed tax assessment rolls, designated as such wetlands by mailing a
17 copy of such order to such owner [by certified mail in any case where a
18 notice by certified mail was not sent pursuant to subdivision four of
19 this section, and in all other cases by first class mail]. The commis-
20 sioner shall also give notice of such order at such time to the chief
21 administrative officer of each local government within the boundaries of
22 which any such wetland or a portion thereof is located. At the time of
23 filing with such clerk or clerks, the commissioner shall also cause a
24 copy of such order to be published in at least two newspapers having
25 general circulation in the area where such wetlands are located. The
26 commissioner may post on the department's website a digital image that
27 represents the final freshwater wetlands map.

1 § 2. Subdivisions 3 and 4 of section 25-0201 of the environmental
2 conservation law, as amended by chapter 598 of the laws of 1976, are
3 amended to read as follows:

4 3. Upon completion of a tentative tidal wetlands boundary map for a
5 particular area, the commissioner or his or her designated hearing offi-
6 cer shall hold a public hearing in order to afford an opportunity for
7 any person to propose additions or deletions from such map. The commis-
8 sioner shall give notice of such hearing to each owner of record of all
9 lands designated as such wetland as shown on such maps, and also to the
10 chief administrative officer of each municipality within whose boundary
11 any such wetland or portion thereof is located[, by certified mail,
12 return receipt requested,] not less than thirty days prior to the date
13 set for such hearing. The commissioner shall also cause notice of such
14 hearing to be published [at least once], not [more than thirty days nor]
15 fewer than [ten] thirty days before the date set for such hearing, in at
16 least two newspapers having a general circulation in the area where such
17 wetlands are located.

18 4. After considering the testimony given at such hearing and any other
19 facts which may be deemed pertinent and after considering the rights of
20 affected property owners and the policy and purposes of this act, the
21 commissioner shall establish by order the final bounds of each such
22 wetland. A copy of the order, together with a copy of the map depicting
23 such final boundary lines, shall be filed in the office of the clerk of
24 the county in which each such wetland is located. The commissioner shall
25 simultaneously give notice of such order to each owner of all lands
26 designated as such wetlands by mailing a copy of such order to such
27 owner. The commissioner shall also simultaneously give notice of such
28 order [by certified mail] to the chief administrative officer of each

1 municipality within whose boundary any such wetland or portion thereof
2 is located. The commissioner shall also cause a copy of such order to be
3 published in at least two newspapers having a general circulation in the
4 area where such wetlands are located.

5 § 3. This act shall take effect immediately.

6 PART K

7 Section 1. Legislative intent. The legislature hereby finds that
8 consumers in the state do not have ready access to information about the
9 products they may use and the product ingredients they may be exposed to
10 every day. While the state has taken steps to ban certain product ingre-
11 dients known to be harmful to human health and the environment, more
12 must be done to give consumers real time access to product ingredient
13 information so consumers can make informed decisions about which
14 products to buy and use. Specifically, consumers should have the right
15 to know if a product contains a carcinogen, mutagen or endocrine disrup-
16 tors and other chemicals of concern, the state, as trustee of its
17 natural resources should have the means to identify substances which may
18 be discharged to the environment.

19 § 2. Subdivision 1 of section 35-0103 of the environmental conserva-
20 tion law is amended to read as follows:

21 1. "[Household cleansing] Cleansing product" means any product,
22 including but not limited to soaps and detergents, containing a surfac-
23 tant as a wetting or dirt emulsifying agent and used primarily for
24 domestic [or], commercial, or industrial cleaning purposes, including
25 but not limited to, the cleansing of fabrics, dishes, food utensils and
26 household and commercial premises. [Household cleansing] Cleansing prod-

1 uct shall not mean foods, drugs, cosmetics, insecticides, fungicides and
2 rodenticides or cleansing products used primarily in industrial manufac-
3 turing, production and assembling processes as provided by the commis-
4 sioner by rule and regulation.

5 § 3. Section 35-0107 of the environmental conservation law is amended
6 to read as follows:

7 § 35-0107. Powers and duties of commissioner.

8 1. The commissioner is hereby authorized to promulgate regulations
9 requiring manufacturers of [household] cleansing products distributed,
10 sold or offered for sale in this state, to furnish to the commissioner
11 for the public record as herein provided information regarding such
12 products in a form prescribed by the commissioner including the nature
13 and extent of investigations and research performed by the manufacturer
14 concerning the effects of such products on human health and the environ-
15 ment. These reports shall be available to the public at the department
16 of environmental conservation, except those portions the manufacturer
17 determines, subject to the approval of the commissioner, would be, if
18 disclosed, seriously prejudicial to the manufacturer's legitimate inter-
19 est in trade secrets and economics of operation.

20 2. [No later than February 1, 1973 the commissioner shall prepare and
21 submit a comprehensive report to the governor and legislature on the
22 status of progress made in research and development to provide a safe
23 and effective substitute for phosphates in household cleansing products.

24 3.] Whenever the commissioner finds, after investigation, that any
25 ingredient of [household] cleansing products distributed, sold, offered
26 or exposed for sale in this state, other than an ingredient for which
27 limitations are set forth in subdivision 2 of section 35-0105, will or
28 is likely to materially affect adversely human health or the environ-

1 ment, he may, after public hearing, restrict or limit by regulation the
2 use of such ingredient in such products.

3 § 4. Article 37 of the environmental conservation law is amended by
4 adding a new title 9 to read as follows:

5 TITLE 9

6 CONSUMER PRODUCT DISCLOSURE

7 Section 37-0901. Short title.

8 37-0903. Definitions.

9 37-0905. Product labeling.

10 37-0907. Chemical disclosure.

11 37-0909. Public education.

12 37-0911. Rules and regulations.

13 37-0913. Enforcement.

14 37-0915. Severability.

15 § 37-0901. Short title.

16 This title shall be known and may be cited as the "consumer chemical
17 awareness act".

18 § 37-0903. Definitions.

19 As used in this title, the following terms shall mean:

20 1. "Consumer product" means any product sold or offered in the state,
21 including but not limited to (a) cleansing products as defined by
22 section 35-0103 of this chapter; (b) any product intended for use, or
23 that may be reasonably expected to be used, by children; (c) any other
24 such product that could, through normal use, expose the user to any
25 carcinogen, mutagen, endocrine disruptor or other chemicals of concern
26 identified by the department.

27 2. "Manufacturer" means any person, firm, association, partnership,
28 limited liability company, corporation, governmental entity, organiza-

tion, combination or joint venture which is the last entity to produce or assemble a consumer product or, in the case of an imported consumer product, the importer or domestic distributor of such product.

3. "Retailer" means any person, firm, association, partnership, limited liability company, corporation, governmental entity, organization, combination or joint venture which sells or otherwise distributes consumer products to consumers or to any other person for any other purpose other than resale.

§ 37-0905. Product labeling.

Except where prohibited by federal law, the department, in consultation with the department of health and department of state, is hereby authorized to establish standards governing the labeling of consumer products identified by the department in regulations which informs consumers of the ingredients of such products including any carcinogen, mutagen, endocrine disrupter or other chemicals of concern identified by the department.

§ 37-0907. Chemical disclosure.

The commissioner is hereby authorized to require manufacturers of consumer products distributed, sold or offered for sale in this state, to furnish to the commissioner for the public record as herein provided information regarding such products in a form prescribed by the commissioner including the nature and extent of investigations and research performed by the manufacturer concerning the effects of such products on human health and the environment. These reports shall be available to the public at the department, except those portions the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer's legitimate interest in trade secrets and economics of operation.

1 § 37-0909. Public education.

2 The commissioner shall establish a public education program to dissem-
3 inate information regarding implementation of this title. Such informa-
4 tion may include, but not be limited to, publication of the website
5 maintained by the state where information required to be disclosed
6 pursuant to this title is maintained; publication of a manufacturer's
7 website where disclosure pursuant to this title is effectuated; and,
8 requirements for retailers to post information in a conspicuous location
9 for the benefit of consumers.

10 § 37-0911. Rules and regulations.

11 1. The department is authorized to promulgate such rules and regu-
12 lations as it shall deem necessary to implement provisions of this
13 title, and shall designate in such rules specific consumer products and
14 chemicals of concern that trigger the labeling and disclosure require-
15 ments of this title taking into account factors such as levels of expo-
16 sure and the feasibility of requiring labeling for such products.

17 2. Any regulations promulgated pursuant to section 37-0905 of this
18 title shall specify the content of such label and shall at a minimum,
19 direct consumers to where they can find additional information about the
20 product and its ingredients.

21 § 37-0913. Enforcement.

22 1. Any person who violates any of the provisions of or who fails to
23 perform any duty imposed by this title or any rule or regulation promul-
24 gated pursuant hereto, shall be liable for a civil penalty not to exceed
25 two thousand five hundred dollars for each such violation and an addi-
26 tional penalty of not more than five hundred dollars for each day during
27 which such violation continues.

28 § 37-0915. Severability.

The provisions of this title shall be severable and if any phrase, clause, sentence or provision of this title, or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 5. The public health law is amended by adding a new article 48-A to read as follows:

ARTICLE 48-A

REGULATION OF PERSONAL CARE PRODUCTS

Section 4850. Declaration of legislative intent and findings.

4851. Definitions.

4852. Disclosure.

4853. Penalties.

4854. Severability.

§ 4850. Declaration of legislative intent and findings. There are tens of thousands of chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added for commercial use. The majority of chemicals in commercial use in the United States, including those used as ingredients in personal care products, have never been fully tested for potential impacts on human health or the environment.

Some chemicals used in personal care products have been identified through scientific studies as being potential carcinogens, reproductive or developmental toxicants, or endocrine disruptors. Some have also been found through biomonitoring studies to be present in human blood, breast milk, or urine. These findings have led national and international agencies to develop lists of chemicals of concern based on the chemicals' potential to impact human health, and their presence in products that consumers use everyday.

1 Federal law requires personal care product labels to list ingredients.
2 However, information concerning the potential health effects of exposure
3 to these chemical ingredients is not widely available, chemicals used as
4 fragrances or flavoring are exempt from labelling requirements, and
5 personal care products sold for commercial use are not required to carry
6 any ingredient labelling. At present, the only way to identify a product
7 as containing a chemical of concern is to compare labeled product ingre-
8 dients with chemical lists developed by many different agencies.

9 Furthermore, independent testing and laboratory analyses by other
10 states have identified products that contain substances that could
11 potentially cause harmful health effects but that are not identified as
12 an ingredient on the product's label. Nevertheless, under the federal
13 Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), many personal
14 care products and their ingredients are not subject to premarket safety
15 testing, review, or approval before they are sold to the public.

16 Therefore, the legislature hereby finds and declares that the disclo-
17 tures required under federal law of ingredients contained in personal
18 care products fail to adequately educate and protect consumers. In
19 order to empower consumers with the information needed to make well-in-
20 formed decisions regarding products that their families are exposed to
21 daily, it shall be the policy of the state to require the personal care
22 product industry to more fully disclose the ingredients they use and,
23 where applicable, identify ingredients that have been published as a
24 chemical of concern on one or more lists identified by the commissioner.
25 This will benefit consumers, encourage manufacturers to remove poten-
26 tially harmful chemicals from their products, and encourage development
27 of innovative methods including green chemistry to replace these ingre-
28 dients with more environmentally-preferable alternatives.

1 § 4851. Definitions. As used in this article, unless the context
2 requires otherwise:

3 1. "Ingredient" shall mean all of the following:

4 (a) An intentionally added ingredient present in any quantity in the
5 personal care product;

6 (b) A nonfunctional byproduct or nonfunctional contaminant, present in
7 a personal care product in any quantity exceeding one-half of one
8 percent (0.5%) of the content of the product by weight or other amount
9 determined by the commissioner;

10 (c) A nonfunctional byproduct present in a personal care product in
11 any quantity not exceeding one-half of one percent (0.5%) of the content
12 of the product by weight, provided such element or compound has been
13 published as a chemical of concern on one or more lists identified by
14 the commissioner;

15 (d) A nonfunctional contaminant present in a personal care product in
16 a quantity determined by the commissioner and not exceeding one-half of
17 one percent (0.5%) of the content of the product by weight, provided
18 such element or compound has been published as a chemical of concern on
19 one or more lists identified by the commissioner.

20 2. "Intentionally added ingredient" shall mean any element or compound
21 that a manufacturer has intentionally added to a personal care product,
22 and which has a functional or technical effect in the finished product,
23 including, but not limited to, the components of intentionally added
24 fragrance, flavoring and colorants, and the intentional breakdown
25 products of an added element or compound that also have a functional or
26 technical effect on the finished product.

27 3. "nonfunctional byproduct" shall mean any element or compound which
28 has no functional or technical effect in the finished product which (a)

1 was intentionally added during the manufacturing process for a personal
2 care product at any point in a product's, a raw material's or ingredi-
3 ent's supply chain or (b) was created for formed during the manufactur-
4 ing process as an intentional or unintentional consequence of the manu-
5 facturing process at any point in a product's, a raw material's, or an
6 ingredient's supply chain. This shall include, but is not limited to, an
7 unreacted raw material, a breakdown product of an intentionally added
8 ingredient, or a byproduct of the manufacturing process.

9 4. "Nonfunctional contaminant" shall mean any element or compound
10 present in a personal care product as an unintentional consequence of
11 manufacturing which has no functional or technical effect in the
12 finished product. Nonfunctional contaminants include, but are not limit-
13 ed to, elements or compounds present in the environment as contaminants
14 which were introduced into a product, a raw material, or a product
15 ingredient as a result of the use of an environmental medium, such as a
16 naturally occurring mineral, air, soil or water, in the manufacturing
17 process at any point in a product's, a raw material's, or an ingredi-
18 ent's supply chain.

19 5. "Manufacturer" shall mean any person, firm, association, partner-
20 ship, limited liability company, or corporation which produces,
21 prepares, formulates, or compounds a personal care product, or whose
22 brand name is affixed to such product. In the case of a personal care
23 product imported into the United States, "manufacturer" shall mean the
24 importer or first domestic distributor of the product if the entity that
25 manufactures the product or whose brand name is affixed to the product
26 does not have a presence in the United States.

27 6. "Personal care product" shall mean articles intended to be rubbed,
28 poured, sprinkled, or sprayed on, introduced into, or otherwise applied

1 to the human body or any part thereof for cleansing, beautifying,
2 promoting attractiveness, or altering the appearance, and articles
3 intended for use as a component of any such articles; except that such
4 term shall not include soap.

5 7. "Soap" shall mean articles comprised entirely of an alkali salt of
6 fatty acids where the detergent properties of the article are due to the
7 alkali-fatty acid compounds, and the article shall be labeled, sold, and
8 represented only as a soap.

9 § 4852. Disclosure. 1. Manufacturers of personal care products
10 distributed, sold or offered for sale in this state, whether at retail
11 or wholesale, for personal or commercial use, or distributed for promo-
12 tional purposes, shall furnish to the commissioner for public record and
13 post on the manufacturer's website, in a manner prescribed by the
14 commissioner that is readily accessible to the public and machine read-
15 able, such information regarding such products pursuant to rules and
16 regulations promulgated by the commissioner. For each personal care
17 product, such information shall include, but shall not be limited to:

18 (a) A list naming each ingredient, as defined in subdivision one of
19 section forty-eight hundred fifty-one of this article, of the product in
20 descending order of predominance by weight in the product, except that
21 ingredients present at a weight below one percent (1%) may be listed
22 following other ingredients without respect to the order of predominance
23 by weight;

24 (b) The nature and extent of investigations and research performed by
25 or for the manufacturer concerning the effects on human health and the
26 environment of such product or such ingredients; and

1 (c) Where applicable, a statement disclosing that an ingredient is
2 published as a chemical of concern on one or more lists identified by
3 the commissioner.

4 2. Such manufacturers shall furnish information on or before July
5 first, two thousand twenty and every two years thereafter. In addition,
6 such manufacturers shall furnish such information prior to the sale of
7 any new personal care product, when the formulation of a currently
8 disclosed product is changed such that the predominance of the ingredi-
9 ents in such product is changed, when any list of chemicals of concern
10 identified by the commissioner pursuant to this article is changed to
11 include an ingredient present in a personal care product subject to this
12 article, or at such other times as may be required by the commissioner.

13 3. Such information shall be made available to the public by the
14 commissioner and manufacturer, in accordance with this section, with the
15 exception of those portions which the manufacturer determines, subject
16 to the approval of the commissioner, is related to a proprietary process
17 the disclosure of which would compromise the manufacturer's competitive
18 position. The commissioner shall not approve any exceptions under this
19 subdivision with respect to any ingredient published as a chemical of
20 concern on one or more lists identified by the commissioner.

21 § 4853. Penalties. A manufacturer in violation of this article is
22 subject to a civil penalty not to exceed five thousand dollars for each
23 violation in the case of a first offense. Manufacturers who are repeat
24 violators are subject to a civil penalty not to exceed ten thousand
25 dollars for each repeat offense.

26 § 4854. Severability. The provisions of this article shall be severa-
27 ble and if any phrase, clause, sentence or provision of this article, or
28 the applicability thereof to any person or circumstance shall be held

1 invalid, the remainder of this article and the application thereof shall
2 not be affected thereby.

3 § 6. This act shall take effect on the sixtieth day after it shall
4 have become a law, provided, however, that any rule or regulation
5 promulgated pursuant to this act shall not take effect prior to April 1,
6 2021; provided, however, that section five of this act shall take effect
7 on January 1, 2020, provided that, effective immediately, the commis-
8 sioner of health shall be authorized to promulgate any and all rules and
9 regulations necessary to implement the provisions of section five on its
10 effective date.

11 PART L

12 Section 1. The banking law is amended by adding a new article 14-A to
13 read as follows:

14 ARTICLE 14-A

15 STUDENT LOAN SERVICERS

16 Section 710. Definitions.

17 711. Licensing.

18 712. Application for a student loan servicer license; fees.

19 713. Application process to receive license to engage in the
20 business of student loan servicing.

21 714. Changes in officers and directors.

22 715. Changes in control.

23 716. Grounds for suspension or revocation of license.

24 717. Books and records; reports and electronic filing.

25 718. Rules and regulations.

26 719. Prohibited practices.

1 720. Servicing student loans without a license.

2 721. Responsibilities.

3 722. Examinations.

4 723. Penalties for violations of this article.

5 724. Severability of provisions.

6 725. Compliance with other laws.

7 § 710. Definitions. 1. "Applicant" shall mean any person applying for
8 a license under this article.

9 2. "Borrower" shall mean any resident of this state who has received a
10 student loan or agreed in writing to pay a student loan or any person
11 who shares a legal obligation with such resident for repaying a student
12 loan.

13 3. "Borrower benefit" shall mean an incentive offered to a borrower in
14 connection with the origination of a student loan, including but not
15 limited to an interest rate reduction, principal rebate, fee waiver or
16 rebate, loan cancellation, or cosigner release.

17 4. "Exempt organization" shall mean any banking organization, foreign
18 banking corporation, national bank, federal savings association, federal
19 credit union, or any bank, trust company, savings bank, savings and loan
20 association, or credit union organized under the laws of any other
21 state, or any person licensed or supervised by the department and
22 exempted by the superintendent pursuant to regulations promulgated in
23 accordance with this article.

24 5. "Person" shall mean any individual, association, corporation,
25 limited liability company, partnership, trust, unincorporated organiza-
26 tion, government, and any other entity.

1 6. "Servicer" or "student loan servicer" shall mean a person engaged
2 in the business of servicing student loans owed by one or more borrowers
3 residing in this state.

4 7. "Servicing" shall mean:

5 (a) receiving any payment from a borrower pursuant to the terms of any
6 student loan;

7 (b) applying any payment to the borrower's account pursuant to the
8 terms of a student loan or the contract governing the servicing of any
9 such loans;

10 (c) providing any notification of amounts owed on a student loan by or
11 on account of any borrower;

12 (d) during a period where a borrower is not required to make a payment
13 on a student loan, maintaining account records for the student loan and
14 communicating with the borrower regarding the student loan on behalf of
15 the owner of the student loan promissory note;

16 (e) interacting with a borrower with respect to or regarding any
17 attempt to avoid default on the borrower's student loan, or facilitating
18 the activities described in paragraph (a) or (b) of this subdivision; or

19 (f) performing other administrative services with respect to a borrow-
20 er's student loan.

21 8. "Student loan" shall mean any loan to a borrower to finance postse-
22 condary education or expenses related to postsecondary education.

23 9. "Federal student loan" means (a) any student loan issued pursuant
24 to the William D. Ford Federal Direct Loan Program; (b) any student loan
25 issued pursuant to the Federal Family Education Loan Program, which was
26 purchased by the government of the United States pursuant to the federal
27 Ensuring Continued Access to Student Loans Act and is presently owned by
28 the government of the United States; and (c) any other student loan

1 issued pursuant to a federal program that is identified by the super-
2 intendent as a "federal student loan" in a regulation.

3 § 711. Licensing. 1. Except as provided in subdivisions two and three
4 of this section, no person shall engage in the business of servicing
5 student loans owed by one or more borrowers residing in this state with-
6 out first being licensed by the superintendent as a student loan servi-
7 cer in accordance with this article and such regulations as may be
8 prescribed by the superintendent.

9 2. The licensing provisions of this article shall not apply to any
10 exempt organization that is a student loan servicer; provided that such
11 exempt organization notifies the superintendent that it is servicing
12 student loans in this state and complies with sections seven hundred
13 seventeen, seven hundred nineteen, seven hundred twenty-one, and seven
14 hundred twenty-five of this article and any regulation applicable to
15 student loan servicers promulgated by the superintendent.

16 3. A license is not required to engage in the business of servicing
17 federal student loans. A person, other than an exempt organization, that
18 services federal student loans owed by one or more borrowers residing in
19 this state, which is not otherwise required to be licensed pursuant to
20 this section, shall notify the superintendent that it is servicing
21 federal student loans in this state and comply with sections seven
22 hundred seventeen, seven hundred nineteen, seven hundred twenty-one,
23 seven hundred twenty-two, seven hundred twenty-three and seven hundred
24 twenty-five of this article and any regulation applicable to student
25 loan servicers promulgated by the superintendent. The provisions of
26 section thirty-three, thirty-nine, and forty-four of this chapter shall
27 apply to a person required to notify the superintendent under this
28 subdivision, as though they were a licensed student loan servicer.

1 § 712. Application for a student loan servicer license; fees. 1. The
2 application for a license to engage in the business of servicing student
3 loans shall be in writing, under oath, and in the form prescribed by the
4 superintendent. Notwithstanding article three of the state technology
5 law or any other law to the contrary, the superintendent may require
6 that an application for a license or any other submission or application
7 for approval as may be required by this article be made or executed by
8 electronic means if he or she deems it necessary to ensure the efficient
9 and effective administration of this article. The application shall
10 include a description of the activities of the applicant, in such detail
11 and for such periods as the superintendent may require; including:
12 (a) an affirmation of financial solvency noting such capitalization
13 requirements as may be required by the superintendent, and access to
14 such credit as may be required by the superintendent;
15 (b) a financial statement prepared by a certified public accountant,
16 the accuracy of which is sworn to under oath before a notary public by
17 an officer or other representative of the applicant who is authorized to
18 execute such documents;
19 (c) an affirmation that the applicant, or its members, officers, part-
20 ners, directors and principals as may be appropriate, are at least twen-
21 ty-one years of age;
22 (d) information as to the character, fitness, financial and business
23 responsibility, background and experiences of the applicant, or its
24 members, officers, partners, directors and principals as may be appro-
25 priate;
26 (e) any additional detail or information required by the superinten-
27 dent.

1 2. An application to become a licensed student loan servicer or any
2 application with respect to a student loan servicer shall be accom-
3 plished by a fee as prescribed pursuant to section eighteen-a of this
4 chapter.

5 § 713. Application process to receive license to engage in the busi-
6 ness of student loan servicing. 1. Upon the filing of an application for
7 a license, if the superintendent shall find that the financial responsi-
8 bility, experience, character, and general fitness of the applicant and,
9 if applicable, the members, officers, partners, directors and principals
10 of the applicant are such as to command the confidence of the community
11 and to warrant belief that the business will be operated honestly, fair-
12 ly, and efficiently within the purpose of this article, the superinten-
13 dent shall thereupon issue a license in duplicate to engage in the busi-
14 ness of servicing student loans described in section seven hundred ten
15 of this article in accordance with the provisions of this article. If
16 the superintendent shall not so find, the superintendent shall not issue
17 a license, and the superintendent shall so notify the applicant. The
18 superintendent shall transmit one copy of a license to the applicant and
19 file another in the office of the department of financial services. Upon
20 receipt of such license, a student loan servicer shall be authorized to
21 engage in the business of servicing student loans in accordance with the
22 provisions of this article. Such license shall remain in full force and
23 effect until it is surrendered by the servicer or revoked or suspended
24 as hereinafter provided.

25 2. The superintendent may refuse to issue a license pursuant to this
26 article if he or she shall find that the applicant, or any person who is
27 a director, officer, partner, agent, employee, member, or substantial
28 stockholder of the applicant:

1 (a) has been convicted of a crime involving an activity which is a
2 felony under this chapter or under article one hundred fifty-five, one
3 hundred seventy, one hundred seventy-five, one hundred seventy-six, one
4 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one
5 hundred ninety, two hundred, two hundred ten or four hundred seventy of
6 the penal law or any comparable felony under the laws of any other state
7 of the United States, provided that such crime would be a felony if
8 committed and prosecuted under the laws of this state;

9 (b) has had a license or registration revoked by the superintendent or
10 any other regulator or jurisdiction;

11 (c) has been an officer, director, partner, member or substantial
12 stockholder of an entity which has had a license or registration revoked
13 by the superintendent or any other regulator or jurisdiction; or

14 (d) has been an agent, employee, officer, director, partner or member
15 of an entity which has had a license or registration revoked by the
16 superintendent where such person shall have been found by the super-
17 intendent to bear responsibility in connection with the revocation.

18 3. The term "substantial stockholder", as used in this section, shall
19 be deemed to refer to a person owning or controlling directly or indi-
20 rectly ten per centum or more of the total outstanding stock of a corpo-
21 ration.

22 § 714. Changes in officers and directors. Upon any change of any of
23 the executive officers, directors, partners or members of any student
24 loan servicer required to be licensed under section seven hundred eleven
25 of this article, the student loan servicer shall submit to the super-
26 intendent the name, address, and occupation of each new officer, direc-
27 tor, partner or member, and provide such other information as the super-
28 intendent may require.

1 § 715. Changes in control. 1. It shall be unlawful except with the
2 prior approval of the superintendent for any action to be taken which
3 results in a change of control of the business of a student loan servi-
4 cer required to be licensed under section seven hundred eleven of this
5 article. Prior to any change of control, the person desirous of acquir-
6 ing control of the business of a student loan servicer shall make writ-
7 ten application to the superintendent and pay an investigation fee as
8 prescribed pursuant to section eighteen-a of this chapter to the super-
9 intendent. The application shall contain such information as the super-
10 intendent, by rule or regulation, may prescribe as necessary or appro-
11 priate for the purpose of making the determination required by
12 subdivision two of this section. This information shall include but not
13 be limited to the information and other material required for a student
14 loan servicer by subdivision one of section seven hundred twelve of this
15 article.

16 2. The superintendent shall approve or disapprove the proposed change
17 of control of a student loan servicer required to be licensed under
18 section seven hundred eleven of this article in accordance with the
19 provisions of section seven hundred thirteen of this article.

20 3. For a period of six months from the date of qualification thereof
21 and for such additional period of time as the superintendent may
22 prescribe, in writing, the provisions of subdivisions one and two of
23 this section shall not apply to a transfer of control by operation of
24 law to the legal representative, as hereinafter defined, of one who has
25 control of a student loan servicer. Thereafter, such legal represen-
26 tative shall comply with the provisions of subdivisions one and two of
27 this section. The provisions of subdivisions one and two of this section
28 shall be applicable to an application made under such section by a legal

1 representative. The term "legal representative", for the purposes of
2 this subdivision, shall mean one duly appointed by a court of competent
3 jurisdiction to act as executor, administrator, trustee, committee,
4 conservator or receiver, including one who succeeds a legal represen-
5 tative and one acting in an ancillary capacity thereto in accordance
6 with the provisions of such court appointment.

7 4. As used in this section the term "control" means the possession,
8 directly or indirectly, of the power to direct or cause the direction of
9 the management and policies of a student loan servicer, whether through
10 the ownership of voting stock of such student loan servicer, the owner-
11 ship of voting stock of any person which possesses such power or other-
12 wise. Control shall be presumed to exist if any person, directly or
13 indirectly, owns, controls or holds with power to vote ten per centum or
14 more of the voting stock of any student loan servicer or of any person
15 which owns, controls or holds with power to vote ten per centum or more
16 of the voting stock of any student loan servicer, but no person shall be
17 deemed to control a student loan servicer solely by reason of being an
18 officer or director of such student loan servicer. The superintendent
19 may in his or her discretion, upon the application of a student loan
20 servicer or any person who, directly or indirectly, owns, controls or
21 holds with power to vote or seeks to own, control or hold with power to
22 vote any voting stock of such student loan servicer, determine whether
23 or not the ownership, control or holding of such voting stock consti-
24 tutes or would constitute control of such student loan servicer for
25 purposes of this section.

26 § 716. Grounds for suspension or revocation of license. 1. After
27 notice and hearing, the superintendent may revoke or suspend any license

1 to engage in the business of a student loan servicer issued pursuant to
2 this article if he or she shall find that:

3 (a) a servicer has violated any provision of this article, any rule or
4 regulation promulgated by the superintendent under and within the
5 authority of this article, or any other applicable law;

6 (b) any fact or condition exists which, if it had existed at the time
7 of the original application for such license, would have warranted the
8 superintendent refusing originally to issue such license;

9 (c) a servicer does not cooperate with an examination or investigation
10 by the superintendent;

11 (d) a servicer engages in fraud, intentional misrepresentation, or
12 gross negligence in servicing a student loan;

13 (e) the competence, experience, character, or general fitness of the
14 servicer, an individual controlling, directly or indirectly, ten percent
15 or more of the outstanding interests, or any person responsible for
16 servicing a student loan for the servicer indicates that it is not in
17 the public interest to permit the servicer to continue servicing student
18 loans;

19 (f) the servicer engages in an unsafe or unsound practice;

20 (g) the servicer is insolvent, suspends payment of its obligations, or
21 makes a general assignment for the benefit of its creditors; or

22 (h) a servicer has violated the laws of this state, any other state or
23 any federal law involving fraudulent or dishonest dealing, or a final
24 judgement has been entered against a student loan servicer in a civil
25 action upon grounds of fraud, misrepresentation or deceit.

26 2. The superintendent may, on good cause shown, or where there is a
27 substantial risk of public harm, suspend any license for a period not
28 exceeding thirty days, pending investigation. "Good cause", as used in

1 this subdivision, shall exist when a student loan servicer has defaulted
2 or is likely to default in performing its financial engagements or
3 engages in dishonest or inequitable practices which may cause substan-
4 tial harm to the persons afforded the protection of this article.

5 3. Except as provided in subdivision two of this section, no license
6 shall be revoked or suspended except after notice and hearing thereon.
7 Any order of suspension issued after notice and a hearing may include as
8 a condition of reinstatement that the student loan servicer make resti-
9 tution to consumers of fees or other charges which have been improperly
10 charged or collected, including but not limited to by allocating
11 payments contrary to a borrower's direction or in a manner that fails to
12 help a borrower avoid default, as determined by the superintendent. Any
13 hearing held pursuant to the provisions of this section shall be
14 noticed, conducted and administered in compliance with the state admin-
15 istrative procedure act.

16 4. Any student loan servicer may surrender any license by delivering
17 to the superintendent written notice that it thereby surrenders such
18 license, but such surrender shall not affect such servicer's civil or
19 criminal liability for acts committed prior to such surrender. If such
20 surrender is made after the issuance by the superintendent of a state-
21 ment of charges and notice of hearing, the superintendent may proceed
22 against the servicer as if such surrender had not taken place.

23 5. No revocation, suspension, or surrender of any license shall impair
24 or affect the obligation of any pre-existing lawful contract between the
25 student loan servicer and any person, including the department of finan-
26 cial services.

1 6. Every license issued pursuant to this article shall remain in force
2 and effect until the same shall have been surrendered, revoked or
3 suspended in accordance with any other provisions of this article.

4 7. Whenever the superintendent shall revoke or suspend a license
5 issued pursuant to this article, he or she shall forthwith execute in
6 duplicate a written order to that effect. The superintendent shall file
7 one copy of such order in the office of the department and shall forth-
8 with serve the other copy upon the student loan servicer. Any such order
9 may be reviewed in the manner provided by article seventy-eight of the
10 civil practice law and rules.

11 § 717. Books and records; reports and electronic filing. 1. Each
12 student loan servicer shall keep and use in its business such books,
13 accounts and records as will enable the superintendent to determine
14 whether such servicer or exempt organization is complying with the
15 provisions of this article and with the rules and regulations lawfully
16 made by the superintendent. Every servicer shall preserve such books,
17 accounts, and records, for at least three years.

18 2. (a) Each student loan servicer, other than an exempt organization,
19 shall annually, on or before a date to be determined by the superinten-
20 dent, file a report with the superintendent giving such information as
21 the superintendent may require concerning the business and operations
22 during the preceding calendar year of such servicer under authority of
23 this article. Such report shall be subscribed and affirmed as true by
24 the servicer under the penalties of perjury and shall be in the form
25 prescribed by the superintendent.

26 (b) In addition to annual reports, the superintendent may require such
27 additional regular or special reports as he or she may deem necessary to
28 the proper supervision of student loan servicers under this article.

1 Such additional reports shall be subscribed and affirmed as true by the
2 servicer under the penalties of perjury and shall be in the form
3 prescribed by the superintendent.

4 3. Notwithstanding article three of the state technology law or any
5 other law to the contrary, the superintendent may require that any
6 submission or approval as may be required by the superintendent be made
7 or executed by electronic means if he or she deems it necessary to
8 ensure the efficient administration of this article.

9 § 718. Rules and Regulations. 1. In addition to such powers as may
10 otherwise be prescribed by law, the superintendent is hereby authorized
11 and empowered to promulgate such rules and regulations as may in the
12 judgement of the superintendent be consistent with the purposes of this
13 article, or appropriate for the effective administration of this arti-
14 cle, including, but not limited to:

15 (a) Such rules and regulations in connection with the activities of
16 student loan servicers as may be necessary and appropriate for the
17 protection of borrowers in this state.

18 (b) Such rules and regulations as may be necessary and appropriate to
19 define unfair, deceptive or abusive acts or practices in connection with
20 the activities of student loan servicers.

21 (c) Such rules and regulations as may define the terms used in this
22 article and as may be necessary and appropriate to interpret and imple-
23 ment the provisions of this article.

24 (d) Such rules and regulations as may be necessary for the enforcement
25 of this article.

26 2. The superintendent is hereby authorized and empowered to make such
27 specific rulings, demands and findings as the superintendent may deem
28 necessary for the proper conduct of the student loan servicing industry.

1 § 719. Prohibited practices. No student loan servicer shall:

2 1. Employ any scheme, device or artifice to defraud or mislead a
3 borrower;

4 2. Engage in any unfair, deceptive or predatory act or practice toward
5 any person or misrepresent or omit any material information in
6 connection with the servicing of a student loan, including, but not
7 limited to, misrepresenting the amount, nature or terms of any fee or
8 payment due or claimed to be due on a student loan, the terms and condi-
9 tions of the loan agreement or the borrower's obligations under the
10 loan;

11 3. Misapply payments to the outstanding balance of any student loan or
12 to any related interest or fees;

13 4. Provide inaccurate information to a consumer reporting agency;

14 5. Refuse to communicate with an authorized representative of the
15 borrower who provides a written authorization signed by the borrower,
16 provided that the servicer may adopt procedures reasonably related to
17 verifying that the representative is in fact authorized to act on behalf
18 of the borrower;

19 6. Make any false statement or make any omission of a material fact in
20 connection with any information or reports filed with a governmental
21 agency or in connection with any investigation conducted by the super-
22 intendent or another governmental agency;

23 7. Fail to respond within fifteen calendar days to communications from
24 the department, or within such shorter, reasonable time as the depart-
25 ment may request in his or her communication; or

26 8. Fail to provide a response within fifteen calendar days to a
27 consumer complaint submitted to the servicer by the department. If
28 necessary, a student loan servicer may request additional time up to a

1 maximum of forty-five calendar days, provided that such request is
2 accompanied by an explanation why such additional time is reasonable and
3 necessary.

4 § 720. Servicing student loans without a license. 1. Whenever, in the
5 opinion of the superintendent, a person is engaged in the business of
6 servicing student loans, other than federal loans, either actually or
7 through subterfuge, without a license from the superintendent, the
8 superintendent may order that person to desist and refrain from engaging
9 in the business of servicing student loans in the state. If, within
10 thirty days after an order is served, a request for a hearing is filed
11 in writing and the hearing is not held within sixty days of the filing,
12 the order shall be rescinded.

13 2. This section does not apply to exempt organizations.

14 § 721. Responsibilities. 1. If a student loan servicer regularly
15 reports information to a consumer reporting agency, the servicer shall
16 accurately report a borrower's payment performance to at least one
17 consumer reporting agency that compiles and maintains files on consumers
18 on a nationwide basis as defined in Section 603(p) of the federal Fair
19 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a
20 data furnisher by that consumer reporting agency.

21 2. (a) Except as provided in federal law or required by a student loan
22 agreement, a student loan servicer shall inquire of a borrower how to
23 apply a borrower's nonconforming payment. A borrower's direction on how
24 to apply a nonconforming payment shall remain in effect for any future
25 nonconforming payment during the term of a student loan until the
26 borrower provides different directions.

1 **(b) For purposes of this subdivision, "nonconforming payment" shall**
2 **mean a payment that is either more or less than the borrower's required**
3 **student loan payment.**

4 **3. (a) If the sale, assignment, or other transfer of the servicing of**
5 **a student loan results in a change in the identity of the person to whom**
6 **the borrower is required to send subsequent payments or direct any**
7 **communications concerning the student loan, a student loan servicer**
8 **shall transfer all information regarding a borrower, a borrower's**
9 **account, and a borrower's student loan, including but not limited to the**
10 **borrower's repayment status and any borrower benefits associated with**
11 **the borrower's student loan, to the new student loan servicer servicing**
12 **the borrower's student loan within forty-five days.**

13 **(b) A student loan servicer shall adopt policies and procedures to**
14 **verify that it has received all information regarding a borrower, a**
15 **borrower's account, and a borrower's student loan, including but not**
16 **limited to the borrower's repayment status and any borrower benefits**
17 **associated with the borrower's student loan, when the servicer obtains**
18 **the right to service a student loan.**

19 **4. If a student loan servicer sells, assigns, or otherwise transfers**
20 **the servicing of a student loan to a new servicer, the sale, assignment**
21 **or other transfer shall be completed at least seven days before the**
22 **borrower's next payment is due.**

23 **5. (a) A student loan servicer that sells, assigns, or otherwise**
24 **transfers the servicing of a student loan shall require as a condition**
25 **of such sale, assignment or other transfer that the new student loan**
26 **servicer shall honor all borrower benefits originally represented as**
27 **being available to a borrower during the repayment of the student loan**
28 **and the possibility of such benefits, including any benefits that were**

1 represented as being available but for which the borrower had not yet
2 qualified.

3 (b) A student loan servicer that obtains the right to service a
4 student loan shall honor all borrower benefits originally represented as
5 being available to a borrower during the repayment of the student loan
6 and the possibility of such benefits, including any benefits that were
7 represented as being available but for which the borrower had not yet
8 qualified.

9 6. A student loan servicer shall respond within thirty days after
10 receipt to a written inquiry from a borrower or a borrower's represen-
11 tative.

12 7. A student loan servicer shall preserve records of each student loan
13 and all communications with borrowers for not less than two years
14 following the final payment on such student loan or the sale, assignment
15 or other transfer of the servicing of such student loan, whichever
16 occurs first, or such longer period as may be required by any other
17 provision of law.

18 § 722. Examinations. 1. The superintendent may at any time, and as
19 often as he or she may determine, either personally or by a person duly
20 designated by the superintendent, investigate the business and examine
21 the books, accounts, records, and files used therein of every student
22 loan servicer. For that purpose the superintendent and his or her duly
23 designated representative shall have free access to the offices and
24 places of business, books, accounts, papers, records, files, safes and
25 vaults of all such servicers. The superintendent and any person duly
26 designated by him or her shall have authority to require the attendance
27 of and to examine under oath all persons whose testimony he or she may
28 require relative to such business.

1 2. No person subject to investigation or examination under this
2 section may knowingly withhold, abstract, remove, mutilate, destroy or
3 secrete any books, records, computer records or other information.

4 3. The expenses incurred in making any examination pursuant to this
5 section shall be assessed against and paid by the student loan servicer
6 so examined, except that travelling and subsistence expenses so incurred
7 shall be charged against and paid by servicers in such proportions as
8 the superintendent shall deem just and reasonable, and such propor-
9 tionate charges shall be added to the assessment of the other expenses
10 incurred upon each examination. Upon written notice by the superinten-
11 dent of the total amount of such assessment, the servicer shall become
12 liable for and shall pay such assessment to the superintendent.

13 4. In any hearing in which a department employee acting under authori-
14 ty of this chapter is available for cross-examination, any official
15 written report, worksheet, other related papers, or duly certified copy
16 thereof, compiled, prepared, drafted, or otherwise made by said depart-
17 ment employee, after being duly authenticated by said employee, may be
18 admitted as competent evidence upon the oath of said employee that said
19 worksheet, investigative report, or other related documents were
20 prepared as a result of an examination of the books and records of a
21 servicer or other person, conducted pursuant to the authority of this
22 chapter.

23 5. Unless it is an exempt organization, affiliates of a student loan
24 servicer are subject to examination by the superintendent on the same
25 terms as the servicer, but only when reports from, or examination of, a
26 servicer provides evidence of unlawful activity between a servicer and
27 affiliate benefitting, affecting, or arising from the activities regu-
28 lated by this article.

1 6. This section shall not apply to exempt organizations. To the extent
2 the superintendent is authorized by any other law to make an examination
3 into the affairs of any exempt organization, this subdivision shall not
4 be construed to limit in any way the superintendent's authority, regard-
5 ing the subjects of such an examination, or otherwise.

6 § 723. Penalties for violation of this article. 1. In addition to such
7 penalties as may otherwise be applicable by law, including but not
8 limited to the penalties available under section forty-four of this
9 chapter, the superintendent may, after notice and hearing, require any
10 person found violating the provisions of this article or the rules or
11 regulations promulgated hereunder to pay to the people of this state a
12 penalty for each violation of the article or any regulation or policy
13 promulgated hereunder a sum not to exceed the greater of (i) ten thou-
14 sand dollars for each offense; (ii) a multiple of two times the aggre-
15 gate damages attributable to the violation; or (iii) a multiple of two
16 times the aggregate economic gain attributable to the violation.

17 2. Nothing in this article shall limit any statutory or common-law
18 right of any person to bring any action in any court for any act, or the
19 right of the state to punish any person for any violation of any law.

20 § 724. Severability of provisions. If any provision of this article,
21 or the application of such provision to any person or circumstance,
22 shall be held invalid, illegal or unenforceable, the remainder of the
23 article, and the application of such provision to persons or circum-
24 stances other than those as to which it is held invalid, illegal or
25 unenforceable, shall not be affected thereby.

26 § 725. Compliance with other laws. 1. Student loan servicers shall
27 engage in the business of servicing student loans in conformity with the
28 provisions of the financial services law, this chapter, such rules and

1 regulations as may be promulgated by the superintendent thereunder and
2 all applicable federal laws and the rules and regulations promulgated
3 thereunder.

4 2. Nothing in this section shall be construed to limit any otherwise
5 applicable state or federal law or regulations.

6 § 2. Subdivision 10 of section 36 of the banking law, as amended by
7 chapter 182 of the laws of 2011, is amended to read as follows:

8 10. All reports of examinations and investigations, correspondence and
9 memoranda concerning or arising out of such examination and investi-
10 gations, including any duly authenticated copy or copies thereof in the
11 possession of any banking organization, bank holding company or any
12 subsidiary thereof (as such terms "bank holding company" and "subsidi-
13 ary" are defined in article three-A of this chapter), any corporation
14 or any other entity affiliated with a banking organization within the
15 meaning of subdivision six of this section and any non-banking subsid-
16 iary of a corporation or any other entity which is an affiliate of a
17 banking organization within the meaning of subdivision six-a of this
18 section, foreign banking corporation, licensed lender, licensed cashier
19 of checks, licensed mortgage banker, registered mortgage broker,
20 licensed mortgage loan originator, licensed sales finance company,
21 registered mortgage loan servicer, licensed student loan servicer,
22 licensed insurance premium finance agency, licensed transmitter of
23 money, licensed budget planner, any other person or entity subject to
24 supervision under this chapter, or the department, shall be confidential
25 communications, shall not be subject to subpoena and shall not be made
26 public unless, in the judgment of the superintendent, the ends of
27 justice and the public advantage will be subserved by the publication
28 thereof, in which event the superintendent may publish or authorize the

1 publication of a copy of any such report or any part thereof in such
2 manner as may be deemed proper or unless such laws specifically author-
3 ize such disclosure. For the purposes of this subdivision, "reports of
4 examinations and investigations, and any correspondence and memoranda
5 concerning or arising out of such examinations and investigations",
6 includes any such materials of a bank, insurance or securities regulato-
7 ry agency or any unit of the federal government or that of this state
8 any other state or that of any foreign government which are considered
9 confidential by such agency or unit and which are in the possession of
10 the department or which are otherwise confidential materials that have
11 been shared by the department with any such agency or unit and are in
12 the possession of such agency or unit.

13 § 3. Section 39 of the banking law, as amended by section 1 of part FF
14 of chapter 59 of the laws of 2004, subdivisions 1, 2 and 5 as amended by
15 chapter 123 of the laws of 2009, subdivision 3 as amended by chapter 155
16 of the laws of 2012 and subdivision 6 as amended by chapter 217 of the
17 laws of 2010, is amended to read as follows:

18 § 39. Orders of superintendent. 1. To appear and explain an apparent
19 violation. Whenever it shall appear to the superintendent that any bank-
20 ing organization, bank holding company, registered mortgage broker,
21 licensed mortgage banker, licensed student loan servicer, registered
22 mortgage loan servicer, licensed mortgage loan originator, licensed
23 lender, licensed casher of checks, licensed sales finance company,
24 licensed insurance premium finance agency, licensed transmitter of
25 money, licensed budget planner, out-of-state state bank that maintains a
26 branch or branches or representative or other offices in this state, or
27 foreign banking corporation licensed by the superintendent to do busi-
28 ness or maintain a representative office in this state has violated any

1 law or regulation, he or she may, in his or her discretion, issue an
2 order describing such apparent violation and requiring such banking
3 organization, bank holding company, registered mortgage broker, licensed
4 mortgage banker, licensed student loan servicer, licensed mortgage loan
5 originator, licensed lender, licensed casher of checks, licensed sales
6 finance company, licensed insurance premium finance agency, licensed
7 transmitter of money, licensed budget planner, out-of-state state bank
8 that maintains a branch or branches or representative or other offices
9 in this state, or foreign banking corporation to appear before him or
10 her, at a time and place fixed in said order, to present an explanation
11 of such apparent violation.

12 2. To discontinue unauthorized or unsafe and unsound practices. When-
13 ever it shall appear to the superintendent that any banking organiza-
14 tion, bank holding company, registered mortgage broker, licensed mort-
15 gage banker, licensed student loan servicer, registered mortgage loan
16 servicer, licensed mortgage loan originator, licensed lender, licensed
17 casher of checks, licensed sales finance company, licensed insurance
18 premium finance agency, licensed transmitter of money, licensed budget
19 planner, out-of-state state bank that maintains a branch or branches or
20 representative or other offices in this state, or foreign banking corpo-
21 ration licensed by the superintendent to do business in this state is
22 conducting business in an unauthorized or unsafe and unsound manner, he
23 or she may, in his or her discretion, issue an order directing the
24 discontinuance of such unauthorized or unsafe and unsound practices, and
25 fixing a time and place at which such banking organization, bank holding
26 company, registered mortgage broker, licensed mortgage banker, licensed
27 student loan servicer, registered mortgage loan servicer, licensed mort-
28 gage loan originator, licensed lender, licensed casher of checks,

1 licensed sales finance company, licensed insurance premium finance agen-
2 cy, licensed transmitter of money, licensed budget planner, out-of-state
3 state bank that maintains a branch or branches or representative or
4 other offices in this state, or foreign banking corporation may volun-
5 tarily appear before him or her to present any explanation in defense of
6 the practices directed in said order to be discontinued.

7 3. To make good impairment of capital or to ensure compliance with
8 financial requirements. Whenever it shall appear to the superintendent
9 that the capital or capital stock of any banking organization, bank
10 holding company or any subsidiary thereof which is organized, licensed
11 or registered pursuant to this chapter, is impaired, or the financial
12 requirements imposed by subdivision one of section two hundred two-b of
13 this chapter or any regulation of the superintendent on any branch or
14 agency of a foreign banking corporation or the financial requirements
15 imposed by this chapter or any regulation of the superintendent on any
16 licensed lender, registered mortgage broker, licensed mortgage banker,
17 licensed student loan servicer, licensed casher of checks, licensed
18 sales finance company, licensed insurance premium finance agency,
19 licensed transmitter of money, licensed budget planner or private banker
20 are not satisfied, the superintendent may, in the superintendent's
21 discretion, issue an order directing that such banking organization,
22 bank holding company, branch or agency of a foreign banking corporation,
23 registered mortgage broker, licensed mortgage banker, licensed student
24 loan servicer, licensed lender, licensed casher of checks, licensed
25 sales finance company, licensed insurance premium finance agency,
26 licensed transmitter of money, licensed budget planner, or private bank-
27 er make good such deficiency forthwith or within a time specified in
28 such order.

1 4. To make good encroachments on reserves. Whenever it shall appear to
2 the superintendent that either the total reserves or reserves on hand of
3 any banking organization, branch or agency of a foreign banking corpo-
4 ration are below the amount required by or pursuant to this chapter or
5 any other applicable provision of law or regulation to be maintained, or
6 that such banking organization, branch or agency of a foreign banking
7 corporation is not keeping its reserves on hand as required by this
8 chapter or any other applicable provision of law or regulation, he or
9 she may, in his or her discretion, issue an order directing that such
10 banking organization, branch or agency of a foreign banking corporation
11 make good such reserves forthwith or within a time specified in such
12 order, or that it keep its reserves on hand as required by this chapter.

13 5. To keep books and accounts as prescribed. Whenever it shall appear
14 to the superintendent that any banking organization, bank holding compa-
15 ny, registered mortgage broker, licensed mortgage banker, licensed
16 student loan servicer, registered mortgage loan servicer, licensed mort-
17 gage loan originator, licensed lender, licensed casher of checks,
18 licensed sales finance company, licensed insurance premium finance agen-
19 cy, licensed transmitter of money, licensed budget planner, agency or
20 branch of a foreign banking corporation licensed by the superintendent
21 to do business in this state, does not keep its books and accounts in
22 such manner as to enable him or her to readily ascertain its true condi-
23 tion, he or she may, in his or her discretion, issue an order requiring
24 such banking organization, bank holding company, registered mortgage
25 broker, licensed mortgage banker, licensed student loan servicer, regis-
26 tered mortgage loan servicer, licensed mortgage loan originator,
27 licensed lender, licensed casher of checks, licensed sales finance
28 company, licensed insurance premium finance agency, licensed transmitter

1 of money, licensed budget planner, or foreign banking corporation, or
2 the officers or agents thereof, or any of them, to open and keep such
3 books or accounts as he or she may, in his or her discretion, determine
4 and prescribe for the purpose of keeping accurate and convenient records
5 of its transactions and accounts.

6 6. As used in this section, "bank holding company" shall have the same
7 meaning as that term is defined in section one hundred forty-one of this
8 chapter.

9 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
10 as amended by chapter 155 of the laws of 2012, is amended to read as
11 follows:

12 (a) Without limiting any power granted to the superintendent under any
13 other provision of this chapter, the superintendent may, in a proceeding
14 after notice and a hearing, require any safe deposit company, licensed
15 lender, licensed casher of checks, licensed sales finance company,
16 licensed insurance premium finance agency, licensed transmitter of
17 money, licensed mortgage banker, licensed student loan servicer, regis-
18 tered mortgage broker, licensed mortgage loan originator, registered
19 mortgage loan servicer or licensed budget planner to pay to the people
20 of this state a penalty for any violation of this chapter, any regu-
21 lation promulgated thereunder, any final or temporary order issued
22 pursuant to section thirty-nine of this article, any condition imposed
23 in writing by the superintendent in connection with the grant of any
24 application or request, or any written agreement entered into with the
25 superintendent.

26 § 5. This act shall take effect on the one hundred eightieth day after
27 it shall have become a law.

1

PART M

2 Section 1. Section 2 of part FF of chapter 55 of the laws of 2017
3 relating to motor vehicles equipped with autonomous vehicle technology,
4 as amended by section 2 of part H of chapter 58 of the laws of 2018, is
5 amended to read as follows:

6 § 2. The commissioner of motor vehicles shall, in consultation with
7 the superintendent of state police, submit a report to the governor, the
8 temporary president of the senate, the speaker of the assembly, and the
9 chairs of the senate and assembly transportation committees on the
10 demonstrations and tests authorized by section one of this act. Such
11 report shall include, but not be limited to, a description of the param-
12 eters and purpose of such demonstrations and tests, the location or
13 locations where demonstrations and tests were conducted, the demon-
14 strations' and tests' impacts on safety, traffic control, traffic
15 enforcement, emergency services, and such other areas as may be identi-
16 fied by such commissioner. Such commissioner shall submit such report
17 [on or before June 1, 2018 and June 1, 2019] June first of each year
18 this section remains in effect.

19 § 2. Section 3 of part FF of chapter 55 of the laws of 2017 relating
20 to motor vehicles equipped with autonomous vehicle technology, as
21 amended by section 3 of part H of chapter 58 of the laws of 2018, is
22 amended to read as follows:

23 § 3. This act shall take effect April 1, 2017; provided, however, that
24 section one of this act shall expire and be deemed repealed April 1,
25 [2019] 2021.

26 § 3. a. The New York state commissioner of motor vehicles may approve
27 demonstrations and tests consisting of the operation of a motor vehicle

1 equipped with autonomous vehicle technology while such motor vehicle is
2 engaged in the use of such technology on public highways within this
3 state for the purposes of demonstrating and assessing the current devel-
4 opment of autonomous vehicle technology and to begin identifying poten-
5 tial impacts of such technology on safety, traffic control, traffic
6 enforcement, emergency services, and such other areas as may be identi-
7 fied by such commissioner. Such demonstrations and tests shall take
8 place in a manner and form prescribed by the commissioner of motor vehi-
9 cles including, but not limited to: a requirement that the motor vehicle
10 utilized in such demonstrations and tests complies with all applicable
11 federal motor vehicle safety standards and New York state motor vehicle
12 inspection standards; and a requirement that the motor vehicle utilized
13 in such demonstrations and tests has in place, at a minimum, financial
14 security in the amount of five million dollars. Nothing in this act
15 shall authorize the motor vehicle utilized in such demonstrations and
16 tests to operate in violation of article 22 or title 7 of the vehicle
17 and traffic law, excluding section 1226 of such law.

18 b. For the purposes of this section, the term "autonomous vehicle
19 technology" shall mean the hardware and software that are collectively
20 capable of performing part or all of the dynamic driving task on a
21 sustained basis, and the term "dynamic driving task" shall mean all of
22 the real-time operational and tactical functions required to operate a
23 vehicle in on-road traffic, excluding the strategic functions such as
24 trip scheduling and selection of destinations and waypoints.

25 § 4. The commissioner of motor vehicles shall, in consultation with
26 the superintendent of state police, submit a report to the governor, the
27 temporary president of the senate, the speaker of the assembly, and the
28 chairs of the senate and assembly transportation committees on the

1 demonstrations and tests authorized by section three of this act. Such
2 report shall include, but not be limited to, a description of the param-
3 eters and purpose of such demonstrations and tests, the location or
4 locations where demonstrations and tests were conducted, the demon-
5 strations' and tests' impacts on safety, traffic control, traffic
6 enforcement, emergency services, and such other areas as may be identi-
7 fied by such commissioner. The commissioner shall submit such report on
8 or before June first of each year section three of this act remains in
9 effect.

10 § 5. Section 1226 of the vehicle and traffic law is REPEALED.

11 § 6. The commissioner of motor vehicles and the superintendent of
12 financial services shall establish regulations consistent with this act.

13 § 7. This act shall take effect immediately; provided, however, that
14 sections three, four, and five of this act shall take effect April 1,
15 2021.

16 PART N

17 Section 1. Section 6 of chapter 713 of the laws of 1988, amending the
18 vehicle and traffic law relating to the ignition interlock device
19 program, as amended by section 14 of part A of chapter 55 of the laws of
20 2017, is amended to read as follows:

21 § 6. This act shall take effect on the first day of April next
22 succeeding the date on which it shall have become a law; provided,
23 however, that effective immediately, the addition, amendment or repeal
24 of any rule or regulation necessary for the implementation of the fore-
25 going sections of this act on their effective date is authorized and
26 directed to be made and completed on or before such effective date and

1 shall remain in full force and effect until the first day of September,
2 [2019] 2021 when upon such date the provisions of this act shall be
3 deemed repealed.

4 § 2. This act shall take effect immediately.

5 PART O

6 Section 1. Subdivision (p) of section 406 of chapter 166 of the laws
7 of 1991, amending the tax law and other laws relating to taxes, as
8 amended by section 12 of part A of chapter 55 of the laws of 2017, is
9 amended to read as follows:

10 (p) The amendments to section 1809 of the vehicle and traffic law made
11 by sections three hundred thirty-seven and three hundred thirty-eight of
12 this act shall not apply to any offense committed prior to such effec-
13 tive date; provided, further, that section three hundred forty-one of
14 this act shall take effect immediately and shall expire November 1, 1993
15 at which time it shall be deemed repealed; sections three hundred
16 forty-five and three hundred forty-six of this act shall take effect
17 July 1, 1991; sections three hundred fifty-five, three hundred fifty-
18 six, three hundred fifty-seven and three hundred fifty-nine of this act
19 shall take effect immediately and shall expire June 30, 1995 and shall
20 revert to and be read as if this act had not been enacted; section three
21 hundred fifty-eight of this act shall take effect immediately and shall
22 expire June 30, 1998 and shall revert to and be read as if this act had
23 not been enacted; section three hundred sixty-four through three hundred
24 sixty-seven of this act shall apply to claims filed on or after such
25 effective date; sections three hundred sixty-nine, three hundred seven-
26 ty-two, three hundred seventy-three, three hundred seventy-four, three

1 hundred seventy-five and three hundred seventy-six of this act shall
2 remain in effect until September 1, [2019] 2021, at which time they
3 shall be deemed repealed; provided, however, that the mandatory
4 surcharge provided in section three hundred seventy-four of this act
5 shall apply to parking violations occurring on or after said effective
6 date; and provided further that the amendments made to section 235 of
7 the vehicle and traffic law by section three hundred seventy-two of this
8 act, the amendments made to section 1809 of the vehicle and traffic law
9 by sections three hundred thirty-seven and three hundred thirty-eight of
10 this act and the amendments made to section 215-a of the labor law by
11 section three hundred seventy-five of this act shall expire on September
12 1, [2019] 2021 and upon such date the provisions of such subdivisions
13 and sections shall revert to and be read as if the provisions of this
14 act had not been enacted; the amendments to subdivisions 2 and 3 of
15 section 400.05 of the penal law made by sections three hundred seventy-
16 seven and three hundred seventy-eight of this act shall expire on July
17 1, 1992 and upon such date the provisions of such subdivisions shall
18 revert and shall be read as if the provisions of this act had not been
19 enacted; the state board of law examiners shall take such action as is
20 necessary to assure that all applicants for examination for admission to
21 practice as an attorney and counsellor at law shall pay the increased
22 examination fee provided for by the amendment made to section 465 of the
23 judiciary law by section three hundred eighty of this act for any exam-
24 ination given on or after the effective date of this act notwithstanding
25 that an applicant for such examination may have prepaid a lesser fee for
26 such examination as required by the provisions of such section 465 as of
27 the date prior to the effective date of this act; the provisions of
28 section 306-a of the civil practice law and rules as added by section

1 three hundred eighty-one of this act shall apply to all actions pending
2 on or commenced on or after September 1, 1991, provided, however, that
3 for the purposes of this section service of such summons made prior to
4 such date shall be deemed to have been completed on September 1, 1991;
5 the provisions of section three hundred eighty-three of this act shall
6 apply to all money deposited in connection with a cash bail or a
7 partially secured bail bond on or after such effective date; and the
8 provisions of sections three hundred eighty-four and three hundred
9 eighty-five of this act shall apply only to jury service commenced
10 during a judicial term beginning on or after the effective date of this
11 act; provided, however, that nothing contained herein shall be deemed to
12 affect the application, qualification, expiration or repeal of any
13 provision of law amended by any section of this act and such provisions
14 shall be applied or qualified or shall expire or be deemed repealed in
15 the same manner, to the same extent and on the same date as the case may
16 be as otherwise provided by law;

17 § 2. Subdivision 8 of section 1809 of the vehicle and traffic law, as
18 amended by section 13 of part A of chapter 55 of the laws of 2017, is
19 amended to read as follows:

20 8. The provisions of this section shall only apply to offenses commit-
21 ted on or before September first, two thousand [nineteen] twenty-one.

22 § 3. This act shall take effect immediately.

23 PART P

24 Section 1. The vehicle and traffic law is amended by adding two new
25 sections 114-e and 114-f to read as follows:

1 § 114-e. Locally authorized scooter. Every two-wheeled device that is
2 no more than forty-one inches in length, seventeen inches in width, and
3 forty-five inches in height, which does not have a seat or saddle, is
4 designed to transport one person standing on the device and can be
5 propelled by any power other than muscular power. Such device may be
6 lawfully operated on public highways pursuant to article thirty-four-D
7 of this chapter only within such counties, cities, towns or villages
8 that have authorized such operation by local law, ordinance, order, rule
9 or regulation.

10 § 114-f. Locally authorized motorcycle. Every motor vehicle, including
11 one partially powered by human power, other than one registered or capa-
12 ble of being registered pursuant to this chapter as a motorcycle or
13 limited use motorcycle, having a seat or a saddle for the use of the
14 rider and designed to travel on two wheels and having a maximum perform-
15 ance speed of not more than twenty miles per hour. Such device may be
16 lawfully operated on public highways pursuant to article thirty-four-E
17 of this chapter only within such counties, cities, towns or villages
18 that have authorized such operation by local law, ordinance, order, rule
19 or regulation.

20 § 2. Section 125 of the vehicle and traffic law, as amended by chapter
21 365 of the laws of 2008, is amended to read as follows:

22 § 125. Motor vehicles. Every vehicle operated or driven upon a public
23 highway which is propelled by any power other than muscular power,
24 except (a) electrically-driven mobility assistance devices operated or
25 driven by a person with a disability, (a-1) electric personal assistive
26 mobility devices operated outside a city with a population of one
27 million or more, (a-2) locally authorized scooters, (a-3) locally
28 authorized motorcycles, (b) vehicles which run only upon rails or

1 tracks, (c) snowmobiles as defined in article forty-seven of this chap-
2 ter, and (d) all terrain vehicles as defined in article forty-eight-B of
3 this chapter. For the purposes of title four of this chapter, the term
4 motor vehicle shall exclude fire and police vehicles other than ambu-
5 lances. For the purposes of titles four and five of this chapter the
6 term motor vehicles shall exclude farm type tractors and all terrain
7 type vehicles used exclusively for agricultural purposes, or for snow
8 plowing, other than for hire, farm equipment, including self-propelled
9 machines used exclusively in growing, harvesting or handling farm
10 produce, and self-propelled caterpillar or crawler-type equipment while
11 being operated on the contract site.

12 § 3. The vehicle and traffic law is amended by adding a new article
13 34-D to read as follows:

14 ARTICLE 34-D

15 OPERATION OF LOCALLY AUTHORIZED SCOOTERS

16 Section 1280. Effect of requirements.

17 1281. Traffic laws apply to persons operating locally authorized
18 scooters; local laws.

19 1282. Operating locally authorized scooters.

20 1283. Clinging to vehicles.

21 1284. Riding on roadways, shoulders and lanes reserved for non-
22 motorized vehicles and devices.

23 1285. Lamps and other equipment.

24 1286. Operators to wear protective headgear.

25 1287. Leaving the scene of an incident involving a locally
26 authorized scooter without reporting.

27 1288. Operation of a locally authorized scooter while under the
28 influence of alcohol or drugs.

1 § 1280. Effect of requirements. The parent of any child and the guard-
2 ian of any ward shall not authorize or knowingly permit any such child
3 or ward to violate any of the provisions of this article.

4 § 1281. Traffic laws apply to persons operating locally authorized
5 scooters; local laws. 1. Locally authorized scooters may only be oper-
6 ated on public highways with a posted speed limit of thirty miles per
7 hour or less, including non-interstate public highways, private roads
8 open to motor vehicle traffic, and designated bicycle or in-line skate
9 lanes. Every person operating a locally authorized scooter upon a high-
10 way or roadway shall be granted all of the rights and shall be subject
11 to all of the duties applicable to the driver of a vehicle by this
12 title, except as to special requirements in this article and except as
13 to those provisions of this title which by their nature can have no
14 application.

15 2. Notwithstanding the provisions of subdivision one of this section
16 the governing body of any county, city, town or village may, by local
17 law, ordinance, order, rule or regulation, further regulate the maximum
18 speed, time, place and manner of the operation of locally authorized
19 scooters including authorizing the use of locally authorized scooters on
20 sidewalks, and limiting or prohibiting the use thereof in specified
21 areas under the jurisdiction of such county, city, town or village.

22 § 1282. Operating locally authorized scooters. 1. No locally author-
23 ized scooter shall be used to carry more than one person at one time. No
24 person operating a locally authorized scooter shall carry any person as
25 a passenger in a pack fastened to the operator or fastened to such
26 scooter.

27 2. No person shall operate a locally authorized scooter outside during
28 the period of time between one-half hour after sunset and one-half hour

1 before sunrise unless such person is wearing readily visible reflective
2 clothing or material which is of a light or bright color.

3 3. No person operating a locally authorized scooter shall carry any
4 package, bundle or article which prevents the operator from keeping at
5 least one hand upon the handle bars or which obstructs his or her vision
6 in any direction.

7 4. Every person operating a locally authorized scooter shall yield the
8 right of way to pedestrians and motor vehicles.

9 5. Every operator of a locally authorized scooter shall be sixteen
10 years of age or older.

11 6. No person shall operate a locally authorized scooter in excess of
12 twenty miles per hour.

13 7. If the governing body of any county, city, town or village shall
14 authorize the use of locally authorized scooters upon any sidewalk, such
15 authorization shall not permit the operation thereof at a speed in
16 excess of eight miles per hour. Additionally, if such authorization is
17 granted, no operator of a locally authorized scooter shall overtake a
18 pedestrian on a sidewalk unless there is adequate space for the locally
19 authorized scooter to pass around the pedestrian and warning is given to
20 such pedestrian through the audible device defined in subdivision two of
21 section twelve hundred eighty-five of this article.

22 8. A first violation of the provisions of this section shall result in
23 no fine. A second or subsequent violation shall result in a civil fine
24 not to exceed fifty dollars.

25 § 1283. Clinging to vehicles. 1. No person operating a locally author-
26 ized scooter shall attach such scooter, or himself or herself to any
27 vehicle being operated upon a roadway.

1 2. No vehicle operator shall knowingly permit any person to attach any
2 locally authorized scooter or himself or herself to such operator's
3 vehicle in violation of subdivision one of this section.

4 § 1284. Riding on roadways, shoulders and lanes reserved for non-mo-
5 torized vehicles and devices. 1. Upon all roadways, any locally author-
6 ized scooter shall be operated either on a usable bicycle or in-line
7 skate lane or, if a usable bicycle or in-line skate lane has not been
8 provided, near the right-hand curb or edge of the roadway or upon a
9 usable right-hand shoulder in such a manner as to prevent undue inter-
10 ference with the flow of traffic except when preparing to turn left at
11 an intersection or when reasonably necessary to avoid conditions that
12 would make it unsafe to continue along near the right-hand curb or edge
13 of the roadway. Conditions to be taken into consideration include, but
14 are not limited to, fixed or moving objects, vehicles, bicycles, in-line
15 skaters, pedestrians, animals, surface hazards and traffic lanes too
16 narrow for a locally authorized scooter and a vehicle to travel safely
17 side-by-side within the lane.

18 2. Persons operating locally authorized scooters upon a roadway shall
19 ride single file. Persons operating locally authorized scooters upon a
20 shoulder, bicycle or in-line skate lane, or bicycle or in-line skate
21 path, intended for the use of bicycles, electric personal assistive
22 mobility devices, locally authorized scooters, locally authorized motor-
23 cycles or in-line skates may ride two or more abreast if sufficient
24 space is available, except that when passing a vehicle, bicycle, elec-
25 tric personal assistive mobility device, locally authorized scooter,
26 person on in-line skates or pedestrian standing or proceeding along such
27 shoulder, lane or path, persons operating locally authorized scooters
28 shall operate such scooter in single file.

1 3. Any person operating a locally authorized scooter who is entering
2 the roadway from a private road, driveway, alley or over a curb shall
3 come to a full stop before entering the roadway.

4 § 1285. Lamps and other equipment. 1. Every locally authorized scooter
5 when in use during the period from one-half hour after sunset to one-
6 half hour before sunrise shall be equipped with a lamp on the front
7 which shall emit a white light visible during hours of darkness from a
8 distance of at least five hundred feet to the front and with a red light
9 visible to the rear for three hundred feet. At least one of these lights
10 shall be visible for two hundred feet from each side.

11 2. No person shall operate a locally authorized scooter unless it is
12 equipped with a bell or other device capable of giving a signal audible
13 for a distance of at least one hundred feet, except that such scooter
14 shall not be equipped with nor shall any person use upon such scooter
15 any siren or whistle.

16 3. Every locally authorized scooter shall be equipped with a system
17 that enables the operator to bring the device to a controlled stop.

18 § 1286. Operators to wear protective headgear. 1. No person shall ride
19 upon, propel or otherwise operate a locally authorized scooter unless
20 such person is wearing a helmet meeting standards established by the
21 commissioner pursuant to the provisions of subdivision two-a of section
22 twelve hundred thirty-eight of this title. As used in this subdivision,
23 wearing a helmet means having a properly fitting helmet fixed securely
24 on the head of such wearer with the helmet straps securely fastened.

25 2. Any person who violates the provisions of subdivision one of this
26 section shall pay a civil fine not to exceed fifty dollars.

27 3. The court shall waive any fine for which a person who violates the
28 provisions of subdivision one of this section would be liable if such

1 person supplies the court with proof that between the date of violation
2 and the appearance date for such violation such person purchased or
3 rented a helmet, which meets the requirements of subdivision one of this
4 section, or if the court finds that due to reasons of economic hardship
5 such person was unable to purchase a helmet or due to such economic
6 hardship such person was unable to obtain a helmet from the statewide
7 in-line skate and bicycle helmet distribution program, as established in
8 section two hundred six of the public health law or a local distribution
9 program. Such waiver of fine shall not apply to a second or subsequent
10 conviction under subdivision one of this section.

11 4. The failure of any person to comply with the provisions of this
12 section shall not constitute contributory negligence or assumption of
13 risk, and shall not in any way bar, preclude or foreclose an action for
14 personal injury or wrongful death by or on behalf of such person, nor in
15 any way diminish or reduce the damages recoverable in any such action.

16 5. A police officer shall only issue a summons for a violation of
17 subdivision one of this section by a person less than fourteen years of
18 age to the parent or guardian of such person if the violation by such
19 person occurs in the presence of such person's parent or guardian and
20 where such parent or guardian is eighteen years of age or older. Such
21 summons shall only be issued to such parent or guardian, and shall not
22 be issued to the person less than fourteen years of age.

23 § 1287. Leaving the scene of an incident involving a locally author-
24 ized scooter without reporting. 1. (a) Any person eighteen years of age
25 or older operating a locally authorized scooter who, knowing or having
26 cause to know, that physical injury, as defined in subdivision nine of
27 section 10.00 of the penal law, has been caused to another person, due
28 to the operation of such locally authorized scooter by such person

1 shall, before leaving the place where such physical injury occurred,
2 stop and provide his or her name and residence, including street and
3 street number, to the injured party, if practical, and also to a police
4 officer, or in the event that no police officer is in the vicinity of
5 the place of said injury, then such person shall report said incident as
6 soon as physically able to the nearest police station or judicial offi-
7 cer.

8 (b) A violation of paragraph (a) of this subdivision shall be a
9 violation.

10 2. (a) Any person eighteen years of age or older operating a locally
11 authorized scooter who knowing or having cause to know, that serious
12 physical injury, as defined in subdivision ten of section 10.00 of the
13 penal law, has been caused to another person, due to the operation of
14 such locally authorized scooter by such person shall, before leaving the
15 place where such serious physical injury occurred, stop and provide his
16 or her name and residence, including street and street number, to the
17 injured party, if practical, and also to a police officer, or in the
18 event that no police officer is in the vicinity of the place of said
19 injury, then such person shall report said incident as soon as phys-
20 ically able to the nearest police station or judicial officer.

21 (b) A violation of paragraph (a) of this subdivision shall be a class
22 B misdemeanor.

23 § 1288. Operation of a locally authorized scooter while under the
24 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
25 person shall operate a locally authorized scooter while his or her abil-
26 ity to operate such locally authorized scooter is impaired by the
27 consumption of alcohol.

1 (i) A violation of this subdivision shall be an offense and shall be
2 punishable by a fine of not less than three hundred dollars nor more
3 than five hundred dollars, or by imprisonment in a penitentiary or coun-
4 ty jail for not more than fifteen days, or by both such fine and impri-
5 sonment.

6 (ii) A person who operates a locally authorized scooter in violation
7 of this subdivision after being convicted of a violation of any subdivi-
8 sion of this section within the preceding five years shall be punished
9 by a fine of not less than five hundred dollars nor more than seven
10 hundred fifty dollars, or by imprisonment of not more than thirty days
11 in a penitentiary or county jail or by both such fine and imprisonment.

12 (iii) A person who operates a locally authorized scooter in violation
13 of this subdivision after being convicted two or more times of a
14 violation of any subdivision of this section within the preceding ten
15 years shall be guilty of a misdemeanor, and shall be punished by a fine
16 of not less than seven hundred fifty dollars nor more than fifteen
17 hundred dollars, or by imprisonment of not more than one hundred eighty
18 days in a penitentiary or county jail or by both such fine and imprison-
19 ment.

20 (b) No such person shall operate a locally authorized scooter while he
21 or she has .08 of one per centum or more by weight of alcohol in his or
22 her blood, breath, urine, or saliva, as determined by the chemical test
23 made pursuant to the provisions of subdivision five of this section.

24 (c) No such person shall operate a locally authorized scooter while he
25 or she has .04 of one per centum or more by weight of alcohol in his or
26 her blood, breath, urine, or saliva, as determined by the chemical test
27 made pursuant to the provisions of subdivision five of this section.

1 (d) No person shall operate a locally authorized scooter while he or
2 she is in an intoxicated condition.

3 (e) No person shall operate a locally authorized scooter while his or
4 her ability to operate such locally authorized scooter is impaired by
5 the use of a drug as defined by section one hundred fourteen-a of the
6 this chapter.

7 (f) No person shall operate a locally authorized scooter while his or
8 her ability to operate such locally authorized scooter is impaired by
9 the combined influence of drugs or of alcohol and any drug or drugs as
10 defined by section one hundred fourteen-a of this chapter.

11 (g)(i) A violation of paragraph (b), (c), (d), (e) or (f) of this
12 subdivision shall be a misdemeanor and shall be punishable by imprison-
13 ment in a penitentiary or county jail for not more than one year, or by
14 a fine of not less than five hundred dollars nor more than one thousand
15 dollars, or by both such fine and imprisonment.

16 (ii) A person who operates a locally authorized scooter in violation
17 of paragraph (b), (c), (d), (e) or (f) of this subdivision after having
18 been convicted of a violation of paragraph (b), (c), (d), (e) or (f) of
19 this subdivision, or of operating a locally authorized scooter while
20 intoxicated or while under the influence of drugs, or while under the
21 combined influence of drugs or of alcohol and any drug or drugs, within
22 the preceding ten years, shall be guilty of a class E felony and shall
23 be punished by a period of imprisonment as provided in the penal law, or
24 by a fine of not less than one thousand dollars nor more than five thou-
25 sand dollars, or by both such fine and imprisonment.

26 (iii) A person who operates a locally authorized scooter in violation
27 of paragraph (b), (c), (d), (e) or (f) of this subdivision after having
28 been twice convicted of a violation of any of such paragraph (b), (c),

1 (d), (e) or (f) of this subdivision or of operating a locally authorized
2 scooter while intoxicated or under the influence of drugs, or while
3 under the combined influence of drugs or of alcohol and any drug or
4 drugs, within the preceding ten years, shall be guilty of a class D
5 felony and shall be punished by a fine of not less than two thousand
6 dollars nor more than ten thousand dollars or by a period of imprison-
7 ment as provided in the penal law, or by both such fine and imprison-
8 ment.

9 2. Sentencing limitations. Notwithstanding any provision of the penal
10 law, no judge or magistrate shall impose a sentence of unconditional
11 discharge or a violation of paragraph (b), (c), (d), (e) or (f) of
12 subdivision one of this section nor shall he or she impose a sentence of
13 conditional discharge unless such conditional discharge is accompanied
14 by a sentence of a fine as provided in this section.

15 3. Sentencing; previous convictions. When sentencing a person for a
16 violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of
17 this section pursuant to subparagraph (ii) of paragraph (g) of subdivi-
18 sion one of this section, the court shall consider any prior convictions
19 the person may have for a violation of subdivision two, two-a, three,
20 four, or four-a of section eleven hundred ninety-two of this title with-
21 in the preceding ten years. When sentencing a person for a violation
22 paragraph (b), (c), (d), (e) or (f) of subdivision one of this section
23 pursuant to subparagraph (iii) of paragraph (g) of subdivision one of
24 this section, the court shall consider any prior convictions the person
25 may have for a violation of subdivision two, two-a, three, four, or
26 four-a of section eleven hundred ninety-two of this title within the
27 preceding ten years. When sentencing a person for a violation of subpar-
28 agraph (ii) of paragraph (a) of subdivision one of this section, the

1 court shall consider any prior convictions the person may have for a
2 violation of any subdivision of section eleven hundred ninety-two of
3 this title within the preceding five years. When sentencing a person for
4 a violation of subparagraph (iii) of paragraph (a) of subdivision one of
5 this section, the court shall consider any prior convictions the person
6 may have for a violation of any subdivision of section eleven hundred
7 ninety-two of this title within the preceding ten years.

8 4. Arrest and testing. (a) Notwithstanding the provisions of section
9 140.10 of the criminal procedure law, a police officer may, without a
10 warrant, arrest a person, in case of a violation of any paragraph of
11 subdivision one of this section, if such violation is coupled with an
12 accident or collision in which such person is involved, which in fact
13 had been committed, though not in the police officer's presence, when he
14 or she has reasonable cause to believe that the violation was committed
15 by such person. For the purposes of this subdivision police officer
16 shall also include a peace officer authorized to enforce this chapter
17 when the alleged violation constitutes a crime.

18 (b) Breath test for operators of locally authorized scooters. Every
19 person operating a locally authorized scooter which has been involved in
20 an accident or which is operated in violation of any of the provisions
21 of this section which regulate the manner in which a locally authorized
22 scooter is to be properly operated shall, at the request of a police
23 officer, submit to a breath test to be administered by the police offi-
24 cer. If such test indicates that such operator has consumed alcohol, the
25 police officer may request such operator to submit to a chemical test in
26 the manner set forth in subdivision five of this section.

27 5. Chemical tests. (a) Any person who operates a locally authorized
28 scooter shall be requested to consent to a chemical test of one or more

1 of the following: breath, blood, urine, or saliva for the purpose of
2 determining the alcoholic or drug content of his or her blood, provided
3 that such test is administered at the direction of a police officer: (i)
4 having reasonable cause to believe such person to have been operating in
5 violation of this subdivision or paragraph (a), (b), (c), (d), (e) or
6 (f) of subdivision one of this section and within two hours after such
7 person has been placed under arrest for any such violation or (ii) with-
8 in two hours after a breath test as provided in paragraph (b) of subdi-
9 vision four this section indicates that alcohol has been consumed by
10 such person and in accordance with the rules and regulations established
11 by the police force of which the officer is a member.

12 (b) For the purpose of this subdivision "reasonable cause" shall be
13 determined by viewing the totality of circumstances surrounding the
14 incident which, when taken together, indicate that the operator was
15 operating a locally authorized scooter in violation of any paragraph of
16 subdivision one of this section. Such circumstances may include, but are
17 not limited to: evidence that the operator was operating a locally
18 authorized scooter in violation of any provision of this chapter, local
19 law, ordinance, order, rule or regulation which regulates the manner in
20 which a locally authorized scooter be properly operated at the time of
21 the incident; any visible indication of alcohol or drug consumption or
22 impairment by the operator; and other evidence surrounding the circum-
23 stances of the incident which indicates that the operator has been oper-
24 ating a locally authorized scooter while impaired by the consumption of
25 alcohol or drugs or was intoxicated at the time of the incident.

26 6. Chemical test evidence. (a) Upon the trial of any such action or
27 proceeding arising out of actions alleged to have been committed by any
28 person arrested for a violation of any paragraph of subdivision one of

1 this section, the court shall admit evidence of the amount of alcohol or
2 drugs in the defendant's blood as shown by a test administered pursuant
3 to the provisions of subdivision five of this section.

4 (b) The following effect shall be give to evidence of blood alcohol
5 content, as determined by such tests, of a person arrested for a
6 violation of any paragraph of subdivision one of this section and who
7 was operating a locally authorized scooter:

8 (i) evidence that there was .05 of one per centum or less by weight of
9 alcohol in such person's blood shall be prima facie evidence that the
10 ability of such person to operate a locally authorized scooter was not
11 impaired by the consumption of alcohol, and that such person was not in
12 an intoxicated condition.

13 (ii) evidence that there was more than .05 of one per centum but less
14 than .07 of one per centum by weight of alcohol in such person's blood
15 shall be prima facie evidence that such person was not in an intoxicated
16 condition, but such evidence shall be relevant evidence but not be given
17 prima facie effect, in determining whether the ability of such person to
18 operate a locally authorized scooter was impaired by the consumption of
19 alcohol.

20 (iii) evidence that there was .07 of one per centum or more but less
21 than .08 of one per centum by weight of alcohol in his or her blood
22 shall be prima facie evidence that such person was not in an intoxicated
23 condition, but such evidence shall be given prima facie effect in deter-
24 mining whether the ability of such person to operate a locally author-
25 ized scooter was impaired by the consumption of alcohol.

26 (c) Evidence of a refusal to submit to a chemical test or any portion
27 thereof shall be admissible in any trial or hearing provided the request

1 to submit to such a test was made in accordance with the provisions of
2 subdivision five of this section.

3 7. Limitations. (a) A locally authorized scooter operator may be
4 convicted of a violation of paragraphs (a), (b), (d), (e) and (f) of
5 subdivision one of this section, notwithstanding that the charge laid
6 before the court alleged a violation of paragraph (b), (d), (e) or (f)
7 of subdivision one of this section, and regardless of whether or not
8 such condition is based on a plea of guilty.

9 (b) In any case wherein the charge laid before the court alleges a
10 violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of
11 this section, any plea of guilty thereafter entered in satisfaction of
12 such charge must include at least a plea of guilty to the violation of
13 the provisions of one of the paragraphs of such subdivision one and no
14 other disposition by plea of guilty to any other charge in satisfaction
15 of such charge shall be authorized; provided, however, if the district
16 attorney upon reviewing the available evidence determines that the
17 charge of a violation of subdivision one of this section is not
18 warranted, he or she may consent, and the court may allow, a disposition
19 by a plea of guilty to another charge in satisfaction of such charge.

20 § 4. The vehicle and traffic law is amended by adding a new article
21 34-E to read as follows:

22 ARTICLE 34-E

23 OPERATION OF LOCALLY AUTHORIZED MOTORCYCLES

24 Section 1290. Effect of requirements.

25 1291. Traffic laws apply to persons operating locally authorized
26 motorcycles; local laws.

27 1292. Operating locally authorized motorcycles.

28 1293. Clinging to vehicles.

1 1294. Riding on roadways, shoulders and lanes reserved for non-
2 motorized vehicles and devices.

3 1295. Lamps and other equipment.

4 1296. Operators to wear protective headgear.

5 1297. Leaving the scene of an incident involving a locally
6 authorized motorcycle without reporting.

7 1298. Operation of a locally authorized motorcycle while under
8 the influence of alcohol or drugs.

9 § 1290. Effect of requirements. The parent of any child and the guard-
10 ian of any ward shall not authorize or knowingly permit any such child
11 or ward to violate any of the provisions of this article.

12 § 1291. Traffic laws apply to persons operating locally authorized
13 motorcycles; local laws. 1. Locally authorized motorcycles may only be
14 operated on public highways with a posted speed limit of thirty miles
15 per hour or less, including non-interstate public highways, private
16 roads open to motor vehicle traffic, and designated bicycle or in-line
17 skate lanes. Every person operating a locally authorized motorcycle upon
18 a highway or roadway shall be granted all of the rights and shall be
19 subject to all of the duties applicable to the driver of a vehicle by
20 this title, except as to special requirements in this article and except
21 as to those provisions of this title which by their nature can have no
22 application.

23 2. Notwithstanding the provisions of subdivision one of this section
24 the governing body of any county, city, town or village may, by local
25 law, ordinance, order, rule or regulation, further regulate the maximum
26 speed, time, place and manner of the operation of locally authorized
27 motorcycles including authorizing the use of locally authorized motorcy-

cles on sidewalks, and limiting or prohibiting the use thereof in specified areas under the jurisdiction of such county, city, town or village.

§ 1292. Operating locally authorized motorcycles. 1. no locally authorized motorcycle shall be used to carry more than one person at one time. No person operating a locally authorized motorcycle shall carry any person as a passenger in a pack fastened to the operator or fastened to such motorcycle.

2. No person shall operate a locally authorized motorcycle outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color.

3. No person operating a locally authorized motorcycle shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision in any direction.

4. Every person operating a locally authorized motorcycle shall yield the right of way to pedestrians and motor vehicles.

5. Every operator of a locally authorized motorcycle shall be sixteen years of age or older.

6. No person shall operate a locally authorized motorcycle in excess of twenty miles per hour.

7. If the governing body of any county, city, town or village shall authorize the use of locally authorized motorcycles upon any sidewalk, such authorization shall not permit the operation thereof at a speed in excess of eight miles per hour. Additionally, if such authorization is granted, no operator of a locally authorized motorcycle shall overtake a pedestrian on a sidewalk unless there is adequate space for the locally authorized motorcycle to pass around the pedestrian and warning is given

1 to such pedestrian through the audible device defined in subdivision two
2 of section twelve hundred ninety-five of this article.

3 8. A first violation of the provisions of this section shall result in
4 no fine. A second or subsequent violation shall result in a civil fine
5 not to exceed fifty dollars.

6 § 1293. Clinging to vehicles. 1. No person operating a locally author-
7 ized motorcycle shall attach such motorcycle, or himself or herself to
8 any vehicle being operated upon a roadway.

9 2. No vehicle operator shall knowingly permit any person to attach any
10 locally authorized motorcycle or himself or herself to such operator's
11 vehicle in violation of subdivision one of this section.

12 § 1294. Riding on roadways, shoulders and lanes reserved for non-mo-
13 torized vehicles and devices. 1. Upon all roadways, any locally author-
14 ized motorcycle shall be operated either on a usable bicycle or in-line
15 skate lane or, if a usable bicycle or in-line skate lane has not been
16 provided, near the right-hand curb or edge of the roadway or upon a
17 usable right-hand shoulder in such a manner as to prevent undue inter-
18 ference with the flow of traffic except when preparing to turn left at
19 an intersection or when reasonably necessary to avoid conditions that
20 would make it unsafe to continue along near the right-hand curb or edge
21 of the roadway. Conditions to be taken into consideration include, but
22 are not limited to, fixed or moving objects, vehicles, bicycles, in-line
23 skaters, pedestrians, animals, surface hazards and traffic lanes too
24 narrow for a locally authorized motorcycle and a vehicle to travel safe-
25 ly side-by-side within the lane.

26 2. Persons operating locally authorized motorcycles upon a roadway
27 shall ride single file. Persons operating locally authorized motorcy-
28 cles upon a shoulder, bicycle or in-line skate lane, or bicycle or

1 in-line skate path, intended for the use of bicycles, electric personal
2 assistive mobility devices, locally authorized scooter, locally author-
3 ized motorcycles or in-line skates may ride two or more abreast if
4 sufficient space is available, except that when passing a vehicle, bicy-
5 cle, electric personal assistive mobility device, locally authorized
6 scooter, locally authorized motorcycles, person on in-line skates or
7 pedestrian standing or proceeding along such shoulder, lane or path,
8 persons operating locally authorized motorcycles shall operate such
9 motorcycle in single file.

10 3. Any person operating a locally authorized motorcycle who is enter-
11 ing the roadway from a private road, driveway, alley or over a curb
12 shall come to a full stop before entering the roadway.

13 § 1295. Lamps and other equipment. 1. Every locally authorized motor-
14 cycle when in use during the period from one-half hour after sunset to
15 one-half hour before sunrise shall be equipped with a lamp on the front
16 which shall emit a white light visible during hours of darkness from a
17 distance of at least five hundred feet to the front and with a red light
18 visible to the rear for three hundred feet. At least one of these lights
19 shall be visible for two hundred feet from each side.

20 2. No person shall operate a locally authorized motorcycle unless it
21 is equipped with a bell or other device capable of giving a signal audi-
22 ble for a distance of at least one hundred feet, except that such motor-
23 cycle shall not be equipped with nor shall any person use upon such
24 motorcycle any siren or whistle.

25 3. Every locally authorized motorcycle shall equipped with a system
26 that enables the operator to bring the device to a controlled stop.

27 § 1296. Operators to wear protective headgear. 1. No person shall ride
28 upon, propel or otherwise operate a locally authorized motorcycle unless

1 such person is wearing a helmet meeting standards established by the
2 commissioner pursuant to the provisions of subdivision two-a of section
3 twelve hundred thirty-eight of this title. As used in this subdivision,
4 wearing a helmet means having a properly fitting helmet fixed securely
5 on the head of such wearer with the helmet straps securely fastened.

6 2. Any person who violates the provisions of subdivision one of this
7 section shall pay a civil fine not to exceed fifty dollars.

8 3. The court shall waive any fine for which a person who violates the
9 provisions of subdivision one of this section would be liable if such
10 person supplies the court with proof that between the date of violation
11 and the appearance date for such violation such person purchased or
12 rented a helmet, which meets the requirements of subdivision one of this
13 section, or if the court finds that due to reasons of economic hardship
14 such person was unable to purchase a helmet or due to such economic
15 hardship such person was unable to obtain a helmet from the statewide
16 in-line skate and bicycle helmet distribution program, as established in
17 section two hundred six of the public health law or a local distribution
18 program. Such waiver of fine shall not apply to a second or subsequent
19 conviction under subdivision one of this section.

20 4. The failure of any person to comply with the provisions of this
21 section shall not constitute contributory negligence or assumption of
22 risk, and shall not in any way bar, preclude or foreclose an action for
23 personal injury or wrongful death by or on behalf of such person, nor in
24 any way diminish or reduce the damages recoverable in any such action.

25 5. A police officer shall only issue a summons for a violation of
26 subdivision one of this section by a person less than fourteen years of
27 age to the parent or guardian of such person if the violation by such
28 person occurs in the presence of such person's parent or guardian and

1 where such parent or guardian is eighteen years of age or older. Such
2 summons shall only be issued to such parent or guardian, and shall not
3 be issued to the person less than fourteen years of age.

4 § 1297. Leaving the scene of an incident involving a locally author-
5 ized motorcycle without reporting. 1. (a) Any person eighteen years of
6 age or older operating a locally authorized motorcycle who, knowing or
7 having cause to know, that physical injury, as defined in subdivision
8 nine of section 10.00 of the penal law, has been caused to another
9 person, due to the operation of such locally authorized motorcycle by
10 such person shall, before leaving the place where such physical injury
11 occurred, stop and provide his or her name and residence, including
12 street and street number, to the injured party, if practical, and also
13 to a police officer, or in the event that no police officer is in the
14 vicinity of the place of said injury, then such person shall report said
15 incident as soon as physically able to the nearest police station or
16 judicial officer.

17 (b) A violation of paragraph (a) of this subdivision shall be a
18 violation.

19 2. (a) Any person eighteen years of age or older operating a locally
20 authorized motorcycle who, knowing or having cause to know, that serious
21 physical injury, as defined in subdivision ten of section 10.00 of the
22 penal law, has been caused to another person, due to the operation of
23 such locally authorized motorcycle by such person shall, before leaving
24 the place where such serious physical injury occurred, stop and provide
25 his or her name and residence, including street and street number, to
26 the injured party, if practical, and also to a police officer, or in the
27 event that no police officer is in the vicinity of the place of said

1 injury, then such person shall report said incident as soon as phys-
2 ically able to the nearest police station or judicial officer.

3 (b) A violation of paragraph (a) of this subdivision shall be a class
4 B misdemeanor.

5 § 1298. Operation of a locally authorized motorcycle while under the
6 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
7 person shall operate a locally authorized motorcycle while his or her
8 ability to operate such locally authorized motorcycle is impaired by the
9 consumption of alcohol.

10 (i) A violation of this subdivision shall be an offense and shall be
11 punishable by a fine of not less than three hundred dollars nor more
12 than five hundred dollars, or by imprisonment in a penitentiary or coun-
13 ty jail for not more than fifteen days, or by both such fine and impri-
14 sonment.

15 (ii) A person who operates a locally authorized motorcycle in
16 violation of this subdivision after being convicted of a violation of
17 any subdivision of this section within the preceding five years shall be
18 punished by a fine of not less than five hundred dollars nor more than
19 seven hundred fifty dollars, or by imprisonment of not more than thirty
20 days in a penitentiary or county jail or by both such fine and imprison-
21 ment.

22 (iii) A person who operates a locally authorized motorcycle in
23 violation of this subdivision after being convicted two or more times of
24 a violation of any subdivision of this section within the preceding ten
25 years shall be guilty of a misdemeanor, and shall be punished by a fine
26 of not less than seven hundred fifty dollars nor more than fifteen
27 hundred dollars, or by imprisonment of not more than one hundred eighty

1 days in a penitentiary or county jail or by both such fine and imprison-
2 ment.

3 (b) No such person shall operate a locally authorized motorcycle while
4 he or she has .08 of one per centum or more by weight of alcohol in his
5 or her blood, breath, urine, or saliva, as determined by the chemical
6 test made pursuant to the provisions of subdivision five of this
7 section.

8 (c) No such person shall operate a locally, authorized motorcycle
9 while he or she has .04 of one per centum or more by weight of alcohol
10 in his or her blood, breath, urine, or saliva, as determined by the
11 chemical test made pursuant to the provisions of subdivision five of
12 this section.

13 (d) No person shall operate a locally authorized motorcycle while he
14 or she is in an intoxicated condition.

15 (e) No person shall operate a locally authorized motorcycle while his
16 or her ability to operate such locally authorized motorcycle is impaired
17 by the use of a drug as defined by section one hundred fourteen-a of
18 this chapter.

19 (f) No person shall operate a locally authorized motorcycle while his
20 or her ability to operate such locally authorized motorcycle is impaired
21 by the combined influence of drugs or of alcohol and any drug or drugs
22 as defined by section one hundred fourteen-a of this chapter.

23 (g) (i) A violation of paragraph (b), (c), (d), (e) or (f) of this
24 subdivision shall be a misdemeanor and shall be punishable by imprison-
25 ment in a penitentiary or county jail for not more than one year, or by
26 a fine of not less than five hundred dollars nor more than one thousand
27 dollars, or by both such fine and imprisonment.

1 (ii) A person who operates a locally authorized motorcycle in
2 violation of paragraph (b), (c), (d), (e) or (f) of this subdivision
3 after having been convicted of a violation of paragraph (b), (c), (d),
4 (e) or (f) of this subdivision, or of operating a locally authorized
5 motorcycle while intoxicated or while under the influence of drugs, or
6 while under the combined influence of drugs or of alcohol and any drug
7 or drugs, within the preceding ten years, shall be guilty of a class E
8 felony and shall be punished by a period of imprisonment as provided in
9 the penal law, or by a fine of not less than one thousand dollars nor
10 more than five thousand dollars, or by both such fine and imprisonment.

11 (iii) A person who operates a locally authorized motorcycle in
12 violation of paragraph (b), (c), (d), (e) or (f) of this subdivision
13 after having been twice convicted of a violation of any of such para-
14 graph (b), (c), (d), (e) or (f) of this subdivision or of operating a
15 locally authorized motorcycle while intoxicated or under the influence
16 of drugs, or while under the combined influence of drugs or of alcohol
17 and any drug or drugs, within the preceding ten years, shall be guilty
18 of a class D felony and shall be punished by a fine of not less than two
19 thousand dollars nor more than ten thousand dollars or by a period of
20 imprisonment as provided in the penal law, or by both such fine and
21 imprisonment.

22 2. Sentencing limitations. Notwithstanding any provision of the penal
23 law, no judge or magistrate shall impose a sentence of unconditional
24 discharge or a violation of paragraph (b), (c), (d), (e) or (f) of
25 subdivision one of this section nor shall he or she impose a sentence of
26 conditional discharge unless such conditional discharge is accompanied
27 by a sentence of a fine as provided in this section.

1 3. Sentencing: previous convictions. When sentencing a person for a
2 violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of
3 this section pursuant to subparagraph (ii) of paragraph (g) of subdivi-
4 sion one of this section, the court shall consider any prior convictions
5 the person may have for a violation of subdivision two, two-a, three,
6 four, or four-a of section eleven hundred ninety-two of this title with-
7 in the preceding ten years. When sentencing a person for a violation of
8 paragraph (b), (c), (d), (e) or (f) of subdivision one of this section
9 pursuant to subparagraph (iii) of paragraph (g) of subdivision one of
10 this section, the court shall consider any prior convictions the person
11 may have for a violation of subdivision two, two-a, three, four, or
12 four-a of section eleven hundred ninety-two of this title within the
13 preceding ten years. When sentencing a person for a violation of subpar-
14 agraph (ii) of paragraph (a) of subdivision one of this section, the
15 court shall consider any prior convictions the person may have for a
16 violation of any subdivision of section eleven hundred ninety-two of
17 this title within the preceding five years. When sentencing a person for
18 a violation of subparagraph (iii) of paragraph (a) of subdivision one of
19 this section, the court shall consider any prior convictions the person
20 may have for a violation of any subdivision of section eleven hundred
21 ninety-two of this title within the preceding ten years.

22 4. Arrest and testing. (a) Notwithstanding the provisions of section
23 140.10 of the criminal procedure law, a police officer may, without a
24 warrant, arrest a person, in case of a violation of any paragraph of
25 subdivision one of this section, if such violation is coupled with an
26 accident or collision in which such person is involved, which in fact
27 had been committed, though not in the police officer's presence, when he
28 or she has reasonable cause to believe that the violation was committed

1 by such person. For the purposes of this subdivision police officer
2 shall also include a peace officer authorized to enforce this chapter
3 when the alleged violation constitutes a crime.

4 (b) Breath test for operators of locally authorized motorcycles.
5 Every person operating a locally authorized motorcycle which has been
6 involved in an accident or which is operated in violation of any of the
7 provisions of this section which regulate the manner in which a locally
8 authorized motorcycle is to be properly operated shall, at the request
9 of a police officer, submit to a breath test to be administered by the
10 police officer. If such test indicates that such operator has consumed
11 alcohol, the police officer may request such operator to submit to a
12 chemical test in the manner set forth in subdivision five of this
13 section.

14 5. Chemical tests. (a) Any person who operates a locally authorized
15 motorcycle shall be requested to consent to a chemical test of one or
16 more of the following: breath, blood, urine, or saliva for the purpose
17 of determining the alcoholic or drug content of his or her blood,
18 provided that such test is administered at the direction of a police
19 officer: (i) having reasonable cause to believe such person to have been
20 operating in violation of this subdivision or paragraph (a), (b), (c),
21 (d), (e) or (f) of subdivision one of this section and within two hours
22 after such person has been placed under arrest for any such violation or
23 (ii) within two hours after a breath test as provided in paragraph (b)
24 of subdivision four of this section indicates that alcohol has been
25 consumed by such person and in accordance with the rules and regulations
26 established by the police force of which the officer is a member.

27 (b) For the purpose of this subdivision "reasonable cause" shall be
28 determined by viewing the totality of circumstances surrounding the

1 incident which, when taken together, indicate that the operator was
2 operating a locally authorized motorcycle in violation of any paragraph
3 of subdivision one of this section. Such circumstances may include, but
4 are not limited to: evidence that the operator was operating a locally
5 authorized motorcycle in violation of any provision of this chapter,
6 local law, ordinance, order, rule or regulation which regulates the
7 manner in which a locally authorized motorcycle be properly operated at
8 the time of the incident; any visible indication of alcohol or drug
9 consumption or impairment by the operator; and other evidence surround-
10 ing the circumstances of the incident which indicates that the operator
11 has been operating a locally authorized motorcycle while impaired by the
12 consumption of alcohol or drugs or was intoxicated at the time of the
13 incident.

14 6. Chemical test evidence. (a) Upon the trial of any such action or
15 proceeding arising out of actions alleged to have been committed by any
16 person arrested for a violation of any paragraph of subdivision one of
17 this section, the court shall admit evidence of the amount of alcohol or
18 drugs in the defendant's blood as shown by a test administered pursuant
19 to the provisions of subdivision five of this section.

20 (b) The following effect shall be given to evidence of blood alcohol
21 content, as determined by such tests, of a person arrested for a
22 violation of any paragraph of subdivision one of this section and who
23 was operating a locally authorized motorcycle:

24 (i) evidence that there was .05 of one per centum or less by weight of
25 alcohol in such person's blood shall be prima facie evidence that the
26 ability of such person to operate a locally authorized motorcycle was
27 not impaired by the consumption of alcohol, and that such person was not
28 in an intoxicated condition.

1 (ii) evidence that there was more than .05 of one per centum but less
2 than .07 of one per centum by weight of alcohol in such person's blood
3 shall be prima facie evidence that such person was not in an intoxicated
4 condition, but such evidence shall be relevant evidence but not be given
5 prima facie effect, in determining whether the ability of such person to
6 operate a locally authorized motorcycle was impaired by the consumption
7 of alcohol.

8 (iii) evidence that there was .07 of one per centum or more but less
9 than .08 of one per centum by weight of alcohol in his or her blood
10 shall be prima facie evidence that such person was not in an intoxicated
11 condition, but such evidence shall be given prima facie effect in deter-
12 mining whether the ability of such person to operate a locally author-
13 ized motorcycle was impaired by the consumption of alcohol.

14 (c) Evidence of a refusal to submit to a chemical test or any portion
15 thereof shall be admissible in any trial or hearing provided the request
16 to submit to such a test was made in accordance with the provisions of
17 subdivision five of this section.

18 7. Limitations. (a) A locally authorized motorcycle operator may be
19 convicted of a violation of paragraphs (a), (b), (d), (e) and (f) of
20 subdivision one of this section, notwithstanding that the charge laid
21 before the court alleged a violation of paragraph (b), (d), (e) or (f)
22 of subdivision one of this section, and regardless of whether or not
23 such condition is based on a plea of guilty.

24 (b) In any case wherein the charge laid before the court alleges a
25 violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of
26 this section, any plea of guilty thereafter entered in satisfaction of
27 such charge must include at least a plea of guilty to the violation of
28 the provisions of one of the paragraphs of such subdivision one and no

1 other disposition by plea of guilty to any other charge in satisfaction
2 of such charge shall be authorized; provided, however, if the district
3 attorney upon reviewing the available evidence determines that the
4 charge of a violation of subdivision one of this section is not
5 warranted, he or she may consent, and the court may allow, a disposition
6 by plea of guilty to another charge in satisfaction of such charge.

7 § 5. This act shall take effect immediately.

8 PART Q

9 Section 1. Paragraph (d) of section 304 of the business corporation
10 law is amended to read as follows:

11 (d) Any designated post office address maintained by the secretary of
12 state as agent of a domestic corporation or foreign corporation for the
13 purpose of mailing process shall be the post office address, within or
14 without the state, to which a person shall mail process against such
15 corporation as required by this article. Any designated [post-office]
16 post office address to which the secretary of state or a person shall
17 mail a copy of any process served upon [him] the secretary of state as
18 agent of a domestic corporation or a foreign corporation, shall continue
19 until the filing of a certificate under this chapter directing the mail-
20 ing to a different [post-office] post office address.

21 § 2. Paragraph (a) of section 305 of the business corporation law, as
22 amended by chapter 131 of the laws of 1985, is amended to read as
23 follows:

24 (a) In addition to such designation of the secretary of state, every
25 domestic corporation or authorized foreign corporation may designate a
26 registered agent in this state upon whom process against such corpo-

1 ration may be served. The agent shall be a natural person who is a resi-
2 dent of or has a business address in this state [or], a domestic corpo-
3 ration or foreign corporation of any type or kind formed, or authorized
4 to do business in this state[,] under this chapter or under any other
5 statute of this state, or a domestic limited liability company or
6 foreign limited liability company formed or authorized to do business in
7 this state.

8 § 3. Subparagraph 1 of paragraph (b) of section 306 of the business
9 corporation law, as amended by chapter 419 of the laws of 1990, is
10 amended to read as follows:

11 (1) Service of process on the secretary of state as agent of a domes-
12 tic or authorized foreign corporation, or other business entity that has
13 designated the secretary of state as agent for service of process pursu-
14 ant to article nine of this chapter, shall be made by [personally deliv-
15 ering to and leaving with the secretary of state or a deputy, or with
16 any person authorized by the secretary of state to receive such service,
17 at the office of the department of state in the city of Albany, dupli-
18 cate copies of such process together with the statutory fee, which fee
19 shall be a taxable disbursement] mailing the process and notice of
20 service thereof by certified mail, return receipt requested, to such
21 corporation or other business entity, at the post office address on file
22 in the department of state specified for this purpose. If a domestic or
23 authorized foreign corporation has no such address on file in the
24 department of state, the process and notice of service thereof shall be
25 mailed, in the case of a domestic corporation, in care of any director
26 named in its certificate of incorporation at the director's address
27 stated therein or, in the case of an authorized foreign corporation, to
28 such corporation at the address of its office within this state on file

1 in the department. On the same day that such process is mailed, a dupli-
2 cate copy of such process and proof of mailing together with the statu-
3 tory fee, which fee shall be a taxable disbursement, shall be personally
4 delivered to and left with the secretary of state or a deputy, or with
5 any person authorized by the secretary of state to receive such service,
6 at the office of the department of state in the city of Albany. Proof of
7 mailing shall be by affidavit of compliance with this section. Service
8 of process on such corporation or other business entity shall be
9 complete when the secretary of state is so served. [The secretary of
10 state shall promptly send one of such copies by certified mail, return
11 receipt requested, to such corporation, at the post office address, on
12 file in the department of state, specified for the purpose. If a domes-
13 tic or authorized foreign corporation has no such address on file in the
14 department of state, the secretary of state shall so mail such copy, in
15 the case of a domestic corporation, in care of any director named in its
16 certificate of incorporation at the director's address stated therein
17 or, in the case of an authorized foreign corporation, to such corpo-
18 ration at the address of its office within this state on file in the
19 department.]

20 § 4. Subparagraphs 2 and 3 of paragraph (a) of section 306-A of the
21 business corporation law, as added by chapter 469 of the laws of 1997,
22 are amended to read as follows:

23 (2) That the address of the party has been designated by the corpo-
24 ration as the post office address to which [the secretary of state] a
25 person shall mail a copy of any process served on the secretary of state
26 as agent for such corporation, specifying such address, and that such
27 party wishes to resign.

1 (3) That at least sixty days prior to the filing of the certificate of
2 resignation for receipt of process with the department of state the
3 party has sent a copy of the certificate of resignation for receipt of
4 process by registered or certified mail to the address of the registered
5 agent of the designating corporation, if other than the party filing the
6 certificate of resignation[,] for receipt of process, or if the [resign-
7 ing] designating corporation has no registered agent, then to the last
8 address of the designating corporation known to the party, specifying
9 the address to which the copy was sent. If there is no registered agent
10 and no known address of the designating corporation, the party shall
11 attach an affidavit to the certificate stating that a diligent but
12 unsuccessful search was made by the party to locate the corporation,
13 specifying what efforts were made.

14 § 5. Subparagraph 7 of paragraph (a) of section 402 of the business
15 corporation law is amended to read as follows:

16 (7) A designation of the secretary of state as agent of the corpo-
17 ration upon whom process against it may be served and the post office
18 address, within or without this state, to which [the secretary of state]
19 a person shall mail a copy of any process against it served upon [him]
20 the secretary of state.

21 § 6. Subparagraph (c) of paragraph 1 of section 408 of the business
22 corporation law, as amended by section 3 of part S of chapter 59 of the
23 laws of 2015, is amended to read as follows:

24 (c) The post office address, within or without this state, to which
25 [the secretary of state] a person shall mail a copy of any process
26 against it served upon [him or her] the secretary of state. Such
27 address shall supersede any previous address on file with the department
28 of state for this purpose.

1 § 7. Subparagraph 4 of paragraph (b) of section 801 of the business
2 corporation law is amended to read as follows:

3 (4) To specify or change the post office address to which [the secre-
4 tary of state] a person shall mail a copy of any process against the
5 corporation served upon [him] the secretary of state.

6 § 8. Subparagraph 2 of paragraph (b) of section 803 of the business
7 corporation law, as amended by chapter 803 of the laws of 1965, is
8 amended to read as follows:

9 (2) To specify or change the post office address to which [the secre-
10 tary of state] a person shall mail a copy of any process against the
11 corporation served upon [him] the secretary of state.

12 § 9. Paragraph (b) of section 805-A of the business corporation law,
13 as added by chapter 725 of the laws of 1964, is amended to read as
14 follows:

15 (b) A certificate of change which changes only the post office address
16 to which [the secretary of state] a person shall mail a copy of any
17 process against a corporation served upon [him or] the secretary of
18 state and/or the address of the registered agent, provided such address
19 being changed is the address of a person, partnership, limited liability
20 company or other corporation whose address, as agent, is the address to
21 be changed or who has been designated as registered agent for such
22 corporation, may be signed[, verified] and delivered to the department
23 of state by such agent. The certificate of change shall set forth the
24 statements required under subparagraphs [(a)] (1), (2) and (3) of para-
25 graph (a) of this section; that a notice of the proposed change was
26 mailed to the corporation by the party signing the certificate not less
27 than thirty days prior to the date of delivery to the department and
28 that such corporation has not objected thereto; and that the party sign-

1 ing the certificate is the agent of such corporation to whose address
2 [the secretary of state] a person is required to mail copies of process
3 served on the secretary of state or the registered agent, if such be the
4 case. A certificate signed[, verified] and delivered under this para-
5 graph shall not be deemed to effect a change of location of the office
6 of the corporation in whose behalf such certificate is filed.

7 § 10. Subparagraph 8 of paragraph (a) of section 904-a of the business
8 corporation law, as amended by chapter 177 of the laws of 2008, is
9 amended to read as follows:

10 (8) If the surviving or resulting entity is a foreign corporation or
11 other business entity, a designation of the secretary of state as its
12 agent upon whom process against it may be served in the manner set forth
13 in paragraph (b) of section three hundred six of this chapter, in any
14 action or special proceeding, and a post office address, within or with-
15 out this state, to which [the secretary of state] a person shall mail a
16 copy of any process against it served upon [him] the secretary of state.
17 Such post office address shall supersede any prior address designated as
18 the address to which process shall be mailed;

19 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
20 the business corporation law, as amended by chapter 494 of the laws of
21 1997, is amended to read as follows:

22 (G) A designation of the secretary of state as its agent upon whom
23 process against it may be served in the manner set forth in paragraph
24 (b) of section 306 (Service of process), in any action or special
25 proceeding, and a post office address, within or without this state, to
26 which [the secretary of state] a person shall mail a copy of any process
27 against it served upon [him] the secretary of state. Such post office

1 address shall supersede any prior address designated as the address to
2 which process shall be mailed.

3 § 12. Subparagraph 6 of paragraph (a) of section 1304 of the business
4 corporation law, as amended by chapter 684 of the laws of 1963 and as
5 renumbered by chapter 590 of the laws of 1982, is amended to read as
6 follows:

7 (6) A designation of the secretary of state as its agent upon whom
8 process against it may be served and the post office address, within or
9 without this state, to which [the secretary of state] a person shall
10 mail a copy of any process against it served upon [him] the secretary of
11 state.

12 § 13. Subparagraph 7 of paragraph (a) of section 1308 of the business
13 corporation law, as amended by chapter 725 of the laws of 1964 and as
14 renumbered by chapter 186 of the laws of 1983, is amended to read as
15 follows:

16 (7) To specify or change the post office address to which [the secre-
17 tary of state] a person shall mail a copy of any process against it
18 served upon [him] the secretary of state.

19 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
20 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
21 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
22 by chapter 172 of the laws of 1999, are amended to read as follows:

23 (2) To specify or change the post office address to which [the secre-
24 tary of state] a person shall mail a copy of any process against it
25 served upon [him] the secretary of state.

26 (c) A certificate of change of application for authority which changes
27 only the post office address to which [the secretary of state] a person
28 shall mail a copy of any process against an authorized foreign corpo-

1 ration served upon [him or which] the secretary of state and/or changes
2 the address of its registered agent, provided such address is the
3 address of a person, partnership, limited liability company or other
4 corporation whose address, as agent, is the address to be changed or who
5 has been designated as registered agent for such authorized foreign
6 corporation, may be signed and delivered to the department of state by
7 such agent. The certificate of change of application for authority shall
8 set forth the statements required under subparagraphs (1), (2), (3) and
9 (4) of paragraph (b) of this section; that a notice of the proposed
10 change was mailed by the party signing the certificate to the authorized
11 foreign corporation not less than thirty days prior to the date of
12 delivery to the department and that such corporation has not objected
13 thereto; and that the party signing the certificate is the agent of such
14 foreign corporation to whose address [the secretary of state] a person
15 is required to mail copies of process served on the secretary of state
16 or the registered agent, if such be the case. A certificate signed and
17 delivered under this paragraph shall not be deemed to effect a change of
18 location of the office of the corporation in whose behalf such certif-
19 icate is filed.

20 § 15. Subparagraphs 1 and 6 of paragraph (a) of section 1310 of the
21 business corporation law, subparagraph 1 as amended by chapter 590 of
22 the laws of 1982, are amended to read as follows:

23 (1) The name of the foreign corporation as it appears on the index of
24 names of existing domestic and authorized foreign corporations of any
25 type or kind in the department of state, division of corporations [or,]
26 and the fictitious name, if any, the corporation has agreed to use in
27 this state pursuant to paragraph (d) of section 1301 of this [chapter]
28 article.

1 (6) A post office address, within or without this state, to which [the
2 secretary of state] a person shall mail a copy of any process against it
3 served upon [him] the secretary of state.

4 § 16. Subparagraph 4 of paragraph (d) of section 1310 of the business
5 corporation law is amended to read as follows:

6 (4) The changed post office address, within or without this state, to
7 which [the secretary of state] a person shall mail a copy of any process
8 against it served upon [him] the secretary of state.

9 § 17. Section 1311 of the business corporation law, as amended by
10 chapter 375 of the laws of 1998, is amended to read as follows:

11 § 1311. Termination of existence.

12 When an authorized foreign corporation is dissolved or its authority
13 or existence is otherwise terminated or cancelled in the jurisdiction of
14 its incorporation or when such foreign corporation is merged into or
15 consolidated with another foreign corporation, a certificate of the
16 secretary of state, or official performing the equivalent function as to
17 corporate records, of the jurisdiction of incorporation of such foreign
18 corporation attesting to the occurrence of any such event or a certified
19 copy of an order or decree of a court of such jurisdiction directing the
20 dissolution of such foreign corporation, the termination of its exist-
21 ence or the cancellation of its authority shall be delivered to the
22 department of state. The filing of the certificate, order or decree
23 shall have the same effect as the filing of a certificate of surrender
24 of authority under section 1310 (Surrender of authority). The secretary
25 of state shall continue as agent of the foreign corporation upon whom
26 process against it may be served in the manner set forth in paragraph
27 (b) of section 306 (Service of process), in any action or special
28 proceeding based upon any liability or obligation incurred by the

1 foreign corporation within this state prior to the filing of such
2 certificate, order or decree and [he] the person serving such process
3 shall [promptly cause a copy of any such] send the process [to be
4 mailed] by [registered] certified mail, return receipt requested, to
5 such foreign corporation at the post office address on file in [his] the
6 office of the secretary of state specified for such purpose and shall
7 provide the secretary of state with proof of such mailing in the manner
8 set forth in paragraph (b) of section 306 (Service of process). The
9 post office address may be changed by signing and delivering to the
10 department of state a certificate of change setting forth the statements
11 required under section 1309-A (Certificate of change; contents) to
12 effect a change in the post office address under subparagraph seven of
13 paragraph (a) [(4)] of section 1308 (Amendments or changes).

14 § 18. Subparagraph 6 of paragraph (a) of section 1530 of the business
15 corporation law, as added by chapter 505 of the laws of 1983, is amended
16 to read as follows:

17 (6) A designation of the secretary of state as its agent upon whom
18 process against it may be served and the post office address, within or
19 without this state, to which [the secretary of state] a person shall
20 mail a copy of any process against it served upon [him] the secretary of
21 state.

22 § 19. Subdivision 10 of section 11 of the cooperative corporations
23 law, as added by chapter 97 of the laws of 1969, is amended to read as
24 follows:

25 10. A designation of the secretary of state as agent of the corpo-
26 ration upon whom process against it may be served and the post office
27 address, within or without this state, to which [the secretary of state]

1 a person shall mail a copy of any process against it served upon [him]
2 the secretary of state.

3 § 20. Subdivision 10 of section 96 of the executive law, as amended by
4 chapter 39 of the laws of 1987, is amended to read as follows:

5 10. For service of process on the secretary of state, acting as agent
6 for a third party pursuant to law, except as otherwise specifically
7 provided by law, forty dollars. No fee shall be collected for process
8 served on behalf of [a] any state official, department, board, agency,
9 authority, county, city, town or village or other political subdivision
10 of the state. The fees paid the secretary of state shall be a taxable
11 disbursement.

12 § 21. The opening paragraph of subdivision 2 and subdivision 3 of
13 section 18 of the general associations law, as amended by chapter 13 of
14 the laws of 1938, are amended and two new subdivisions 5 and 6 are added
15 to read as follows:

16 Every association doing business within this state shall file in the
17 department of state a certificate in its associate name, signed [and
18 acknowledged] by its president, or a vice-president, or secretary, or
19 treasurer, or managing director, or trustee, designating the secretary
20 of state as an agent upon whom process in any action or proceeding
21 against the association may be served within this state, and setting
22 forth an address to which [the secretary of state] a person shall mail a
23 copy of any process against the association which may be served upon
24 [him] the secretary of state pursuant to law. Annexed to the certif-
25 icate of designation shall be a statement, executed in the same manner
26 as the certificate is required to be executed under this section, which
27 shall set forth:

1 3. Any association, from time to time, may change the address to
2 which [the secretary of state] a person is directed to mail copies of
3 process served on the secretary of state, by filing a statement to that
4 effect, executed[,] and signed [and acknowledged] in like manner as a
5 certificate of designation as herein provided.

6 5. Any designated post office address maintained by the secretary of
7 state as agent in any action or proceeding against the association for
8 the purpose of mailing process shall be the post office address, within
9 or without the state, to which a person shall mail process against such
10 association as required by this article. Such address shall continue
11 until the filing of a certificate under this chapter directing the mail-
12 ing to a different post office address.

13 6. "Process" means judicial process and all orders, demands, notices
14 or other papers required or permitted by law to be personally served on
15 an association, for the purpose of acquiring jurisdiction of such asso-
16 ciation in any action or proceeding, civil or criminal, whether judi-
17 cial, administrative, arbitratative or otherwise, in this state or in the
18 federal courts sitting in or for this state.

19 § 22. Section 19 of the general associations law, as amended by chap-
20 ter 166 of the laws of 1991, is amended to read as follows:

21 § 19. Service of process. 1. Service of process against an associ-
22 ation upon the secretary of state shall be made by mailing the process
23 and notice of service thereof by certified mail, return receipt
24 requested, to such corporation or other business entity, at the post
25 office address on file in the department of state specified for this
26 purpose. On the same day that such process is mailed, a duplicate copy
27 of such process and proof of mailing shall be personally [delivering]
28 delivered to and [leaving] left with [him] the secretary of state or a

1 deputy [secretary of state or an associate attorney, senior attorney or
2 attorney in the corporation division of the department of state, dupli-
3 cate copies of such process at the office of the department of state in
4 the city of Albany] so designated. At the time of such service the
5 plaintiff shall pay a fee of forty dollars to the secretary of state,
6 which shall be a taxable disbursement. [If the cost of registered mail
7 for transmitting a copy of the process shall exceed two dollars, an
8 additional fee equal to such excess shall be paid at the time of the
9 service of such process. The secretary of state shall forthwith send by
10 registered mail one of such copies to the association at the address
11 fixed for that purpose, as herein provided.]

12 2. Proof of mailing shall be by affidavit of compliance with this
13 section. Service of process on such association shall be complete when
14 the secretary of state is so served. If the action or proceeding is
15 instituted in a court of limited jurisdiction, service of process may be
16 made in the manner provided in this section if the cause of action arose
17 within the territorial jurisdiction of the court and the office of the
18 defendant, as set forth in its statement filed pursuant to section eigh-
19 teen of this [chapter] article, is within such territorial jurisdiction.

20 § 23. Subdivision 2 of section 352-b of the general business law, as
21 amended by chapter 252 of the laws of 1983, is amended to read as
22 follows:

23 2. Service of such process upon the secretary of state shall be made
24 by personally delivering to and leaving with [him or] the secretary of
25 state, a deputy secretary of state, or with a person authorized by the
26 secretary of state to receive such service, a copy thereof at the office
27 of the department of state in the city of Albany, and such service shall
28 be sufficient service provided that notice of such service and a copy of

1 such process are forthwith sent by the attorney general to such person,
2 partnership, corporation, company, trust or association, by registered
3 or certified mail with return receipt requested, at [his or its] the
4 office as set forth in the "broker-dealer's statement", "salesman's
5 statement" or "investment advisor's statement" filed in the department
6 of law pursuant to section three hundred fifty-nine-e or section three
7 hundred fifty-nine-eee of this article, or in default of the filing of
8 such statement, at the last address known to the attorney general.
9 Service of such process shall be complete on receipt by the attorney
10 general of a return receipt purporting to be signed by the addressee or
11 a person qualified to receive [his or its] registered or certified mail,
12 in accordance with the rules and customs of the post office department,
13 or, if acceptance was refused by the addressee or [his or its] their
14 agent, on return to the attorney general of the original envelope bear-
15 ing a notation by the postal authorities that receipt thereof was
16 refused.

17 § 24. Section 686 of the general business law, as added by chapter 730
18 of the laws of 1980, is amended to read as follows:

19 § 686. Designation of secretary of state as agent for service of proc-
20 ess; service of process. Any person who shall offer to sell or sell a
21 franchise in this state as a franchisor, subfranchisor or franchise
22 sales agent shall be deemed to have irrevocably appointed the secretary
23 of state as his or [its] her agent upon whom may be served any summons,
24 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
25 ess directed to such person, or any partner, principal, officer, sales-
26 man or director thereof, or his or [its] her successor, administrator or
27 executor, in any action, investigation, or proceeding which arises under
28 this article or a rule hereunder, with the same force and validity as if

1 served personally on such person. Service of such process upon the
2 secretary of state shall be made by personally delivering to and leaving
3 with [him or] the secretary of state, a deputy secretary of state, or
4 with any person authorized by the secretary of state to receive such
5 service, a copy thereof at the office of the department of state, and
6 such service shall be sufficient provided that notice of such service
7 and a copy of such process are sent forthwith by the department to such
8 person, by registered or certified mail with return receipt requested,
9 at [his] the address [as] set forth in the application for registration
10 of his or her offering prospectus or in the registered offering prospec-
11 tus itself filed with the department of law pursuant to this article, or
12 in default of the filing of such application or prospectus, at the last
13 address known to the department. Service of such process shall be
14 complete upon receipt by the department of a return receipt purporting
15 to be signed by the addressee or a person qualified to receive [his or
16 its] registered or certified mail, in accordance with the rules and
17 customs of the post office department, or, if acceptance was refused or
18 unclaimed by the addressee or his or [its] her agent, or if the address-
19 ee moved without leaving a forwarding address, upon return to the
20 department of the original envelope bearing a notation by the postal
21 authorities that receipt thereof was refused or that such mail was
22 otherwise undeliverable.

23 § 25. Paragraph 4 of subdivision (e) of section 203 of the limited
24 liability company law, as added by chapter 470 of the laws of 1997, is
25 amended to read as follows:

26 (4) a designation of the secretary of state as agent of the limited
27 liability company upon whom process against it may be served and the
28 post office address, within or without this state, to which [the secre-

1 tary of state] a person shall mail a copy of any process against the
2 limited liability company served upon [him or her] the secretary of
3 state;

4 § 26. Paragraph 4 of subdivision (a) of section 206 of the limited
5 liability company law, as amended by chapter 44 of the laws of 2006, is
6 amended to read as follows:

7 (4) a statement that the secretary of state has been designated as
8 agent of the limited liability company upon whom process against it may
9 be served and the post office address, within or without this state, to
10 which [the secretary of state] a person shall mail a copy of any process
11 against it served upon [him or her] the secretary of state;

12 § 27. Paragraph 6 of subdivision (d) of section 211 of the limited
13 liability company law is amended to read as follows:

14 (6) a change in the post office address to which [the secretary of
15 state] a person shall mail a copy of any process against the limited
16 liability company served upon [him or her] the secretary of state if
17 such change is made other than pursuant to section three hundred one of
18 this chapter;

19 § 28. Section 211-A of the limited liability company law, as added by
20 chapter 448 of the laws of 1998, is amended to read as follows:

21 § 211-A. Certificate of change. (a) A limited liability company may
22 amend its articles of organization from time to time to (i) specify or
23 change the location of the limited liability company's office; (ii)
24 specify or change the post office address to which [the secretary of
25 state] a person shall mail a copy of any process against the limited
26 liability company served upon [him] the secretary of state; and (iii)
27 make, revoke or change the designation of a registered agent, or specify
28 or change the address of the registered agent. Any one or more such

1 changes may be accomplished by filing a certificate of change which
2 shall be entitled "Certificate of Change of (name of limited
3 liability company) under section 211-A of the Limited Liability Company
4 Law" and shall be signed and delivered to the department of state. It
5 shall set forth:

6 (1) the name of the limited liability company, and if it has been
7 changed, the name under which it was formed;

8 (2) the date the articles of organization were filed by the department
9 of state; and

10 (3) each change effected thereby.

11 (b) A certificate of change which changes only the post office address
12 to which [the secretary of state] a person shall mail a copy of any
13 process against a limited liability company served upon [him or] the
14 secretary of state and/or the address of the registered agent, provided
15 such address being changed is the address of a person, partnership,
16 limited liability company or corporation whose address, as agent, is the
17 address to be changed or who has been designated as registered agent for
18 such limited liability company may be signed and delivered to the
19 department of state by such agent. The certificate of change shall set
20 forth the statements required under subdivision (a) of this section;
21 that a notice of the proposed change was mailed to the domestic limited
22 liability company by the party signing the certificate not less than
23 thirty days prior to the date of delivery to the department of state and
24 that such domestic limited liability company has not objected thereto;
25 and that the party signing the certificate is the agent of such limited
26 liability company to whose address [the secretary of state] a person is
27 required to mail copies of process served on the secretary of state or
28 the registered agent, if such be the case. A certificate signed and

1 delivered under this subdivision shall not be deemed to effect a change
2 of location of the office of the limited liability company in whose
3 behalf such certificate is filed.

4 § 29. Paragraph 2 of subdivision (b) of section 213 of the limited
5 liability company law is amended to read as follows:

6 (2) to change the post office address to which [the secretary of
7 state] a person shall mail a copy of any process against the limited
8 liability company served upon [him or her] the secretary of state; and

9 § 30. Subdivisions (c) and (e) of section 301 of the limited liability
10 company law, subdivision (e) as amended by section 5 of part S of chap-
11 ter 59 of the laws of 2015, are amended to read as follows:

12 (c) Any designated post office address maintained by the secretary of
13 state as agent of a domestic limited liability company or foreign limit-
14 ed liability company for the purpose of mailing process shall be the
15 post office address, within or without the state, to which a person
16 shall mail process against such limited liability company as required by
17 this article. Any designated post office address to which the secretary
18 of state or a person shall mail a copy of process served upon [him or
19 her] the secretary of state as agent of a domestic limited liability
20 company or a foreign limited liability company shall continue until the
21 filing of a certificate under this chapter directing the mailing to a
22 different post office address.

23 [(e)] (d) (1) Except as otherwise provided in this subdivision, every
24 limited liability company to which this chapter applies, shall biennial-
25 ly in the calendar month during which its articles of organization or
26 application for authority were filed, or effective date thereof if stat-
27 ed, file on forms prescribed by the secretary of state, a statement
28 setting forth the post office address within or without this state to

1 which [the secretary of state] a person shall mail a copy of any process
2 accepted against it served upon [him or her] the secretary of state.
3 Such address shall supersede any previous address on file with the
4 department of state for this purpose.

5 (2) The commissioner of taxation and finance and the secretary of
6 state may agree to allow limited liability companies to include the
7 statement specified in paragraph one of this subdivision on tax reports
8 filed with the department of taxation and finance in lieu of biennial
9 statements and in a manner prescribed by the commissioner of taxation
10 and finance. If this agreement is made, starting with taxable years
11 beginning on or after January first, two thousand sixteen, each limited
12 liability company required to file the statement specified in paragraph
13 one of this subdivision that is subject to the filing fee imposed by
14 paragraph three of subsection (c) of section six hundred fifty-eight of
15 the tax law shall provide such statement annually on its filing fee
16 payment form filed with the department of taxation and finance in lieu
17 of filing a statement under this section with the department of state.
18 However, each limited liability company required to file a statement
19 under this section must continue to file the biennial statement required
20 by this section with the department of state until the limited liability
21 company in fact has filed a filing fee payment form with the department
22 of taxation and finance that includes all required information. After
23 that time, the limited liability company shall continue to provide annu-
24 ally the statement specified in paragraph one of this subdivision on its
25 filing fee payment form in lieu of the biennial statement required by
26 this subdivision.

27 (3) If the agreement described in paragraph two of this subdivision is
28 made, the department of taxation and finance shall deliver to the

1 department of state the statement specified in paragraph one of this
2 subdivision contained on filing fee payment forms. The department of
3 taxation and finance must, to the extent feasible, also include the
4 current name of the limited liability company, department of state iden-
5 tification number for such limited liability company, the name, signa-
6 ture and capacity of the signer of the statement, name and street
7 address of the filer of the statement, and the email address, if any, of
8 the filer of the statement.

9 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
10 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
11 section 301-A of the limited liability company law, as added by chapter
12 448 of the laws of 1998, are amended to read as follows:

13 (2) that the address of the party has been designated by the limited
14 liability company as the post office address to which [the secretary of
15 state] a person shall mail a copy of any process served on the secretary
16 of state as agent for such limited liability company, such address and
17 that such party wishes to resign.

18 (3) that at least sixty days prior to the filing of the certificate
19 of resignation for receipt of process with the department of state the
20 party has sent a copy of the certificate of resignation for receipt of
21 process by registered or certified mail to the address of the registered
22 agent of the designated limited liability company, if other than the
23 party filing the certificate of resignation[,] for receipt of process,
24 or if the [resigning] designating limited liability company has no
25 registered agent, then to the last address of the designated limited
26 liability company known to the party, specifying the address to which
27 the copy was sent. If there is no registered agent and no known address
28 of the designating limited liability company, the party shall attach an

1 affidavit to the certificate stating that a diligent but unsuccessful
2 search was made by the party to locate the limited liability company,
3 specifying what efforts were made.

4 (ii) sent by or on behalf of the plaintiff to such limited liability
5 company by registered or certified mail with return receipt requested to
6 the last address of such limited liability company known to the plain-
7 tiff.

8 (ii) Where service of a copy of process was effected by mailing in
9 accordance with this section, proof of service shall be by affidavit of
10 compliance with this section filed, together with the process, within
11 thirty days after receipt of the return receipt signed by the limited
12 liability company or other official proof of delivery or of the original
13 envelope mailed. If a copy of the process is mailed in accordance with
14 this section, there shall be filed with the affidavit of compliance
15 either the return receipt signed by such limited liability company or
16 other official proof of delivery, if acceptance was refused by it, the
17 original envelope with a notation by the postal authorities that accept-
18 ance was refused. If acceptance was refused a copy of the notice and
19 process together with notice of the mailing by registered or certified
20 mail and refusal to accept shall be promptly sent to such limited
21 liability company at the same address by ordinary mail and the affidavit
22 of compliance shall so state. Service of process shall be complete ten
23 days after such papers are filed with the clerk of the court. The
24 refusal to accept delivery of the registered or certified mail or to
25 sign the return receipt shall not affect the validity of the service and
26 such limited liability company refusing to accept such registered or
27 certified mail shall be charged with knowledge of the contents thereof.

1 § 32. Subdivision (a) of section 303 of the limited liability company
2 law, as relettered by chapter 341 of the laws of 1999, is amended to
3 read as follows:

4 (a) Service of process on the secretary of state as agent of a domes-
5 tic limited liability company [or], authorized foreign limited liability
6 company, or other business entity that has designated the secretary of
7 state as agent for service of process pursuant to article ten of this
8 chapter, shall be made by mailing the process and notice of service
9 thereof by certified mail, return receipt requested, to such limited
10 liability company or other business entity, at the post office address
11 on file in the department of state specified for this purpose. On the
12 same day as such process is mailed, a duplicate copy of such process and
13 proof of mailing shall be [made by] personally [delivering] delivered to
14 and [leaving] left with the secretary of state or his or her deputy, or
15 with any person authorized by the secretary of state to receive such
16 service, at the office of the department of state in the city of Albany,
17 [duplicate copies of such process] together with the statutory fee,
18 which fee shall be a taxable disbursement. Proof of mailing shall be by
19 affidavit of compliance with this section. Service of process on such
20 limited liability company or other business entity shall be complete
21 when the secretary of state is so served. [The secretary of state shall
22 promptly send one of such copies by certified mail, return receipt
23 requested, to such limited liability company at the post office address
24 on file in the department of state specified for that purpose.]

25 § 33. Section 305 of the limited liability company law is amended to
26 read as follows:

27 § 305. Records of process served on the secretary of state. The
28 [secretary of state] department of state shall keep a record of each

1 process served upon the secretary of state under this chapter, including
2 the date of such service [and the action of the secretary of state with
3 reference thereto]. It shall, upon request made within ten years of such
4 service, issue a certificate under its seal certifying as to the receipt
5 of the process by an authorized person, the date and place of such
6 service and the receipt of the statutory fee. Process served upon the
7 secretary of state under this chapter shall be destroyed by the depart-
8 ment of state after a period of ten years from such service.

9 § 34. Paragraph 4 of subdivision (a) of section 802 of the limited
10 liability company law, as amended by chapter 470 of the laws of 1997, is
11 amended to read as follows:

12 (4) a designation of the secretary of state as its agent upon whom
13 process against it may be served and the post office address, within or
14 without this state, to which [the secretary of state] a person shall
15 mail a copy of any process against it served upon [him or her] the
16 secretary of state;

17 § 35. Section 804-A of the limited liability company law, as added by
18 chapter 448 of the laws of 1998, is amended to read as follows:

19 § 804-A. Certificate of change. (a) A foreign limited liability compa-
20 ny may amend its application for authority from time to time to (i)
21 specify or change the location of the limited liability company's
22 office; (ii) specify or change the post office address to which [the
23 secretary of state] a person shall mail a copy of any process against
24 the limited liability company served upon [him] the secretary of state;
25 and (iii) to make, revoke or change the designation of a registered
26 agent, or to specify or change the address of a registered agent. Any
27 one or more such changes may be accomplished by filing a certificate of
28 change which shall be entitled "Certificate of Change of (name

1 of limited liability company) under section 804-A of the Limited Liabil-
2 ity Company Law" and shall be signed and delivered to the department of
3 state. It shall set forth:

4 (1) the name of the foreign limited liability company and, if applica-
5 ble, the fictitious name the limited liability company has agreed to use
6 in this state pursuant to section eight hundred two of this article;

7 (2) the date its application for authority was filed by the department
8 of state; and

9 (3) each change effected thereby[,].

10 (b) A certificate of change which changes only the post office address
11 to which [the secretary of state] a person shall mail a copy of any
12 process against a foreign limited liability company served upon [him or]
13 the secretary of state and/or the address of the registered agent,
14 provided such address being changed is the address of a person, partner-
15 ship [or], corporation or other limited liability company whose address,
16 as agent, is the address to be changed or who has been designated as
17 registered agent for such limited liability company may be signed and
18 delivered to the department of state by such agent. The certificate of
19 change shall set forth the statements required under subdivision (a) of
20 this section; that a notice of the proposed change was mailed to the
21 foreign limited liability company by the party signing the certificate
22 not less than thirty days prior to the date of delivery to the depart-
23 ment of state and that such foreign limited liability company has not
24 objected thereto; and that the party signing the certificate is the
25 agent of such foreign limited liability company to whose address [the
26 secretary of state] a person is required to mail copies of process
27 served on the secretary of state or the registered agent, if such be the
28 case. A certificate signed and delivered under this subdivision shall

1 not be deemed to effect a change of location of the office of the
2 foreign limited liability company in whose behalf such certificate is
3 filed.

4 § 36. Paragraph 6 of subdivision (b) of section 806 of the limited
5 liability company law is amended to read as follows:

6 (6) a post office address, within or without this state, to which [the
7 secretary of state] a person shall mail a copy of any process against it
8 served upon [him or her] the secretary of state.

9 § 37. Paragraph 11 of subdivision (a) of section 1003 of the limited
10 liability company law, as amended by chapter 374 of the laws of 1998, is
11 amended to read as follows:

12 (11) a designation of the secretary of state as its agent upon whom
13 process against it may be served in the manner set forth in article
14 three of this chapter in any action or special proceeding, and a post
15 office address, within or without this state, to which [the secretary of
16 state] a person shall mail a copy of any process served upon [him or
17 her] the secretary of state. Such post office address shall supersede
18 any prior address designated as the address to which process shall be
19 mailed;

20 § 38. Clause (iv) of subparagraph (A) of paragraph 2 of subdivision
21 (c) of section 1203 of the limited liability company law, as amended by
22 chapter 44 of the laws of 2006, is amended to read as follows:

23 (iv) a statement that the secretary of state has been designated as
24 agent of the professional service limited liability company upon whom
25 process against it may be served and the post office address, within or
26 without this state, to which [the secretary of state] a person shall
27 mail a copy of any process against it served upon [him or her] the
28 secretary of state;

§ 39. Paragraph 6 of subdivision (a) and subparagraph 5 of paragraph (i) of subdivision (d) of section 1306 of the limited liability company law, subparagraph 5 of paragraph (i) of subdivision (d) as amended by chapter 44 of the laws of 2006, are amended to read as follows:

(6) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [the secretary of state] a person shall mail a copy of any process against it served upon [him or her] the secretary of state; and

(5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address, within or without this state, to which [the secretary of state] a person shall mail a copy of any process against it served upon [him or her] the secretary of state;

§ 40. Paragraph (d) of section 304 of the not-for-profit corporation law, as amended by chapter 358 of the laws of 2015, is amended to read as follows:

(d) Any designated post office address maintained by the secretary of state as agent of a domestic not-for-profit corporation or foreign not-for-profit corporation for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such corporation as required by this article. Any designated [post-office] post office address to which the secretary of state or a person shall mail a copy of process served upon [him or her] the secretary of state as agent of a domestic corporation formed under article four of this chapter or foreign corporation, shall contin-

1 ue until the filing of a certificate under this chapter directing the
2 mailing to a different [post-office] post office address.

3 § 41. Paragraph (a) of section 305 of the not-for-profit corporation
4 law, as amended by chapter 549 of the laws of 2013, is amended to read
5 as follows:

6 (a) Every domestic corporation or authorized foreign corporation may
7 designate a registered agent in this state upon whom process against
8 such corporation may be served. The agent shall be a natural person who
9 is a resident of or has a business address in this state or a domestic
10 corporation or foreign corporation of any kind formed[,] or authorized
11 to do business in this state[,] under this chapter or under any other
12 statute of this state, or a domestic limited liability company or a
13 foreign limited liability company authorized to do business in this
14 state.

15 § 42. Paragraph (b) of section 306 of the not-for-profit corporation
16 law, as amended by chapter 23 of the laws of 2014, is amended to read as
17 follows:

18 (b) Service of process on the secretary of state as agent of a domes-
19 tic corporation formed under article four of this chapter or an author-
20 ized foreign corporation shall be made by mailing the process and notice
21 of service thereof by certified mail, return receipt requested, to such
22 corporation or other business entity, at the post office address on file
23 in the department of state specified for this purpose. On the same day
24 that such process is mailed, a duplicate copy of such process and proof
25 of mailing shall be personally [delivering] delivered to and [leaving]
26 left with the secretary of state or his or her deputy, or with any
27 person authorized by the secretary of state to receive such service, at
28 the office of the department of state in the city of Albany, [duplicate

1 copies of such process] together with the statutory fee, which fee shall
2 be a taxable disbursement. Proof of mailing shall be by affidavit of
3 compliance with this section. Service of process on such corporation or
4 other business entity shall be complete when the secretary of state is
5 so served. [The secretary of state shall promptly send one of such
6 copies by certified mail, return receipt requested, to such corporation,
7 at the post office address, on file in the department of state, speci-
8 fied for the purpose.] If a domestic corporation formed under article
9 four of this chapter or an authorized foreign corporation has no such
10 address on file in the department of state, the [secretary of state
11 shall so mail such] duplicate copy of the process shall be mailed to
12 such corporation at the address of its office within this state on file
13 in the department.

14 § 43. Subparagraph 6 of paragraph (a) of section 402 of the not-for-
15 profit corporation law, as added by chapter 564 of the laws of 1981 and
16 as renumbered by chapter 132 of the laws of 1985, is amended to read as
17 follows:

18 (6) A designation of the secretary of state as agent of the corpo-
19 ration upon whom process against it may be served and the post office
20 address, within or without this state, to which [the secretary of state]
21 a person shall mail a copy of any process against it served upon [him]
22 the secretary of state.

23 § 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
24 profit corporation law, as amended by chapter 438 of the laws of 1984,
25 is amended to read as follows:

26 (7) To specify or change the post office address to which [the secre-
27 tary of state] a person shall mail a copy of any process against the
28 corporation served upon [him] the secretary of state.

1 § 45. Subparagraph 2 of paragraph (c) of section 802 of the not-for-
2 profit corporation law, as amended by chapter 186 of the laws of 1983,
3 is amended to read as follows:

4 (2) To specify or change the post office address to which [the secre-
5 tary of state] a person shall mail a copy of any process against the
6 corporation served upon [him] the secretary of state.

7 § 46. Subparagraph 6 of paragraph (a) of section 803 of the not-for-
8 profit corporation law, as amended by chapter 23 of the laws of 2014, is
9 amended to read as follows:

10 (6) A designation of the secretary of state as agent of the corpo-
11 ration upon whom process against it may be served and the post office
12 address, within or without this state, to which [the secretary of
13 state] a person shall mail a copy of any process against it served upon
14 the secretary of state.

15 § 47. Paragraph (b) of section 803-A of the not-for-profit corporation
16 law, as amended by chapter 172 of the laws of 1999, is amended to read
17 as follows:

18 (b) A certificate of change which changes only the post office address
19 to which [the secretary of state] a person shall mail a copy of any
20 process against the corporation served upon [him or] the secretary of
21 state and/or the address of the registered agent, provided such address
22 being changed is the address of a person, partnership, limited liability
23 company or other corporation whose address, as agent, is the address to
24 be changed or who has been designated as registered agent for such
25 corporation, may be signed and delivered to the department of state by
26 such agent. The certificate of change shall set forth the statements
27 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
28 section; that a notice of the proposed change was mailed to the corpo-

1 ration by the party signing the certificate not less than thirty days
2 prior to the date of delivery to the department and that such corpo-
3 ration has not objected thereto; and that the party signing the certif-
4 icate is the agent of such corporation to whose address [the secretary
5 of state] a person is required to mail copies of any process against the
6 corporation served upon [him] the secretary of state or the registered
7 agent, if such be the case. A certificate signed and delivered under
8 this paragraph shall not be deemed to effect a change of location of the
9 office of the corporation in whose behalf such certificate is filed.

10 § 48. Clause (E) of subparagraph 2 of paragraph (d) of section 906 of
11 the not-for-profit corporation law, as amended by chapter 1058 of the
12 laws of 1971, is amended to read as follows:

13 (E) A designation of the secretary of state as its agent upon whom
14 process against it may be served in the manner set forth in paragraph
15 (b) of section 306 (Service of process), in any action or special
16 proceeding described in [subparagraph] clause (D) of this subparagraph
17 and a post office address, within or without this state, to which [the
18 secretary of state] a person shall mail a copy of the process in such
19 action or special proceeding served upon the secretary of state.

20 § 49. Clause (F) of subparagraph 2 of paragraph (d) of section 908 of
21 the not-for-profit corporation law is amended to read as follows:

22 (F) A designation of the secretary of state as [his] its agent upon
23 whom process against it may be served in the manner set forth in para-
24 graph (b) of section 306 (Service of process), in any action or special
25 proceeding described in [subparagraph] clause (D) of this subparagraph
26 and a post office address, within or without the state, to which [the
27 secretary of state] a person shall mail a copy of the process in such
28 action or special proceeding served upon by the secretary of state.

1 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
2 profit corporation law, as renumbered by chapter 590 of the laws of
3 1982, is amended to read as follows:

4 (6) A designation of the secretary of state as its agent upon whom
5 process against it may be served and the post office address, within or
6 without this state, to which [the secretary of state] a person shall
7 mail a copy of any process against it served upon [him] the secretary of
8 state.

9 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
10 profit corporation law, as renumbered by chapter 186 of the laws of
11 1983, is amended to read as follows:

12 (7) To specify or change the post office address to which [the secre-
13 tary of state] a person shall mail a copy of any process against it
14 served upon [him] the secretary of state.

15 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
16 1310 of the not-for-profit corporation law, paragraph (c) as amended by
17 chapter 172 of the laws of 1999, are amended to read as follows:

18 (2) To specify or change the post office address to which [the secre-
19 tary of state] a person shall mail a copy of any process against it
20 served upon [him] the secretary of state.

21 (c) A certificate of change of application for authority which changes
22 only the post office address to which [the secretary of state] a person
23 shall mail a copy of any process against an authorized foreign corpo-
24 ration served upon [him or] the secretary of state and/or which changes
25 the address of its registered agent, provided such address is the
26 address of a person, partnership, limited liability company or other
27 corporation whose address, as agent, is the address to be changed or who
28 has been designated as registered agent for such authorized foreign

1 corporation, may be signed and delivered to the department of state by
2 such agent. The certificate of change of application for authority shall
3 set forth the statements required under subparagraphs (1), (2), (3) and
4 (4) of paragraph (b) of this section; that a notice of the proposed
5 change was mailed by the party signing the certificate to the authorized
6 foreign corporation not less than thirty days prior to the date of
7 delivery to the department and that such corporation has not objected
8 thereto; and that the party signing the certificate is the agent of such
9 foreign corporation to whose address [the secretary of state] a person
10 is required to mail copies of process served on the secretary of state
11 or the registered agent, if such be the case. A certificate signed and
12 delivered under this paragraph shall not be deemed to effect a change of
13 location of the office of the corporation in whose behalf such certif-
14 icate is filed.

15 § 53. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph
16 (d) of section 1311 of the not-for-profit corporation law are amended to
17 read as follows:

18 (6) A post office address, within or without this state, to which [the
19 secretary of state] a person shall mail a copy of any process against it
20 served upon [him] the secretary of state.

21 (4) The changed post office address, within or without this state, to
22 which [the secretary of state] a person shall mail a copy of any process
23 against it served upon [him] the secretary of state.

24 § 54. Section 1312 of the not-for-profit corporation law, as amended
25 by chapter 375 of the laws of 1998, is amended to read as follows:

26 § 1312. Termination of existence.

27 When an authorized foreign corporation is dissolved or its authority
28 or existence is otherwise terminated or cancelled in the jurisdiction of

1 its incorporation or when such foreign corporation is merged into or
2 consolidated with another foreign corporation, a certificate of the
3 secretary of state, or official performing the equivalent function as to
4 corporate records, of the jurisdiction of incorporation of such foreign
5 corporation attesting to the occurrence of any such event or a certified
6 copy of an order or decree of a court of such jurisdiction directing the
7 dissolution of such foreign corporation, the termination of its exist-
8 ence or the cancellation of its authority shall be delivered to the
9 department of state. The filing of the certificate, order or decree
10 shall have the same effect as the filing of a certificate of surrender
11 of authority under section 1311 (Surrender of authority). The secretary
12 of state shall continue as agent of the foreign corporation upon whom
13 process against it may be served in the manner set forth in paragraph
14 (b) of section 306 (Service of process), in any action or special
15 proceeding based upon any liability or obligation incurred by the
16 foreign corporation within this state prior to the filing of such
17 certificate, order or decree and [he] the person serving such process
18 shall promptly cause a copy of any such process to be mailed by [regis-
19 tered] certified mail, return receipt requested, to such foreign corpo-
20 ration at the post office address on file [in his office] with the
21 department specified for such purpose. The post office address may be
22 changed by signing and delivering to the department of state a certif-
23 icate of change setting forth the statements required under section 1310
24 (Certificate of change, contents) to effect a change in the post office
25 address under subparagraph [(a) (4)] (7) of paragraph (a) of section
26 1308 (Amendments or changes).

27 § 55. Subdivision (c) of section 121-104 of the partnership law, as
28 added by chapter 950 of the laws of 1990, is amended to read as follows:

1 (c) Any designated post office address maintained by the secretary of
2 state as agent of a domestic limited partnership or foreign limited
3 partnership for the purpose of mailing process shall be the post office
4 address, within or without the state, to which a person shall mail proc-
5 ess against such limited partnership as required by this article. Any
6 designated post office address to which the secretary of state or a
7 person shall mail a copy of process served upon [him] the secretary of
8 state as agent of a domestic limited partnership or foreign limited
9 partnership shall continue until the filing of a certificate under this
10 article directing the mailing to a different post office address.

11 § 56. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of
12 the partnership law, as added by chapter 448 of the laws of 1998, are
13 amended to read as follows:

14 (1) the name of the limited partnership and the date that its [arti-
15 cles of organization] certificate of limited partnership or application
16 for authority was filed by the department of state.

17 (2) that the address of the party has been designated by the limited
18 partnership as the post office address to which [the secretary of state]
19 a person shall mail a copy of any process served on the secretary of
20 state as agent for such limited partnership, and that such party wishes
21 to resign.

22 (3) that at least sixty days prior to the filing of the certificate of
23 resignation for receipt of process with the department of state the
24 party has sent a copy of the certificate of resignation for receipt of
25 process by registered or certified mail to the address of the registered
26 agent of the [designated] designating limited partnership, if other than
27 the party filing the certificate of resignation[,] for receipt of proc-
28 ess, or if the [resigning] designating limited partnership has no regis-

1 tered agent, then to the last address of the [designated] designating
2 limited partnership, known to the party, specifying the address to which
3 the copy was sent. If there is no registered agent and no known address
4 of the designating limited partnership the party shall attach an affida-
5 vit to the certificate stating that a diligent but unsuccessful search
6 was made by the party to locate the limited partnership, specifying what
7 efforts were made.

8 § 57. Subdivision (a) of section 121-105 of the partnership law, as
9 added by chapter 950 of the laws of 1990, is amended to read as follows:

10 (a) In addition to the designation of the secretary of state, each
11 limited partnership or authorized foreign limited partnership may desig-
12 nate a registered agent upon whom process against the limited partner-
13 ship may be served. The agent must be (i) a natural person who is a
14 resident of this state or has a business address in this state, [or]
15 (ii) a domestic corporation or a foreign corporation authorized to do
16 business in this state, or (iii) a domestic limited liability company or
17 a foreign limited liability company authorized to do business in this
18 state.

19 § 58. Subdivisions (a) and (c) of section 121-109 of the partnership
20 law, as added by chapter 950 of the laws of 1990 and as relettered by
21 chapter 341 of the laws of 1999, are amended to read as follows:

22 (a) Service of process on the secretary of state as agent of a domes-
23 tic or authorized foreign limited partnership, or other business entity
24 that has designated the secretary of state as agent for service of proc-
25 ess pursuant to this chapter, shall be made [as follows:

26 (1) By] by mailing the process and notice of service of process pursu-
27 ant to this section by certified mail, return receipt requested, to such
28 domestic or authorized foreign limited partnership or other business

1 entity, at the post office address on file in the department of state
2 specified for this purpose. On the same day as the process is mailed, a
3 duplicate copy of such process and proof of mailing shall be personally
4 [delivering] delivered to and [leaving] left with [him or his] the
5 secretary of state or a deputy, or with any person authorized by the
6 secretary of state to receive such service, at the office of the depart-
7 ment of state in the city of Albany, [duplicate copies of such process]
8 together with the statutory fee, which fee shall be a taxable disburse-
9 ment. Proof of mailing shall be by affidavit of compliance with this
10 section. Service of process on such limited partnership or other busi-
11 ness entity shall be complete when the secretary of state is so served.

12 [(2) The service on the limited partnership is complete when the
13 secretary of state is so served.]

14 (3) The secretary of state shall promptly send one of such copies by
15 certified mail, return receipt requested, addressed to the limited part-
16 nership at the post office address, on file in the department of state,
17 specified for that purpose.]

18 (c) The [secretary of state] department of state shall keep a record
19 of all process served upon [him] it under this section and shall record
20 therein the date of such service [and his action with reference there-
21 to]. It shall, upon request made within ten years of such service, issue
22 a certificate under its seal certifying as to the receipt of the process
23 by an authorized person, the date and place of such service and the
24 receipt of the statutory fee. Process served upon the secretary of state
25 under this chapter shall be destroyed by the department after a period
26 of ten years from such service.

27 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
28 (i) of subdivision (c) of section 121-201 of the partnership law, para-

1 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
2 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
3 by chapter 44 of the laws of 2006, are amended to read as follows:

4 (3) a designation of the secretary of state as agent of the limited
5 partnership upon whom process against it may be served and the post
6 office address, within or without this state, to which [the secretary of
7 state] a person shall mail a copy of any process against it served upon
8 [him] the secretary of state;

9 (4) a statement that the secretary of state has been designated as
10 agent of the limited partnership upon whom process against it may be
11 served and the post office address, within or without this state, to
12 which [the secretary of state] a person shall mail a copy of any process
13 against it served upon [him or her] the secretary of state;

14 § 60. Paragraph 4 of subdivision (b) of section 121-202 of the part-
15 nership law, as amended by chapter 576 of the laws of 1994, is amended
16 to read as follows:

17 (4) a change in the name of the limited partnership, or a change in
18 the post office address to which [the secretary of state] a person shall
19 mail a copy of any process against the limited partnership served on
20 [him] the secretary of state, or a change in the name or address of the
21 registered agent, if such change is made other than pursuant to section
22 121-104 or 121-105 of this article.

23 § 61. Section 121-202-A of the partnership law, as added by chapter
24 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
25 chapter 172 of the laws of 1999, is amended to read as follows:

26 § 121-202-A. Certificate of change. (a) A certificate of limited part-
27 nership may be changed by filing with the department of state a certif-
28 icate of change entitled "Certificate of Change of (name of limit-

1 ed partnership) under Section 121-202-A of the Revised Limited
2 Partnership Act" and shall be signed and delivered to the department of
3 state. A certificate of change may (i) specify or change the location of
4 the limited partnership's office; (ii) specify or change the post office
5 address to which [the secretary of state] a person shall mail a copy of
6 process against the limited partnership served upon [him] the secretary
7 of state; and (iii) make, revoke or change the designation of a regis-
8 tered agent, or to specify or change the address of its registered
9 agent. It shall set forth:

10 (1) the name of the limited partnership, and if it has been changed,
11 the name under which it was formed;

12 (2) the date its certificate of limited partnership was filed by the
13 department of state; and

14 (3) each change effected thereby.

15 (b) A certificate of change which changes only the post office address
16 to which [the secretary of state] a person shall mail a copy of any
17 process against a limited partnership served upon [him or] the secretary
18 of state and/or the address of the registered agent, provided such
19 address being changed is the address of a person, partnership, limited
20 liability corporation or corporation whose address, as agent, is the
21 address to be changed or who has been designated as registered agent for
22 such limited partnership shall be signed and delivered to the department
23 of state by such agent. The certificate of change shall set forth the
24 statements required under subdivision (a) of this section; that a notice
25 of the proposed change was mailed to the domestic limited partnership by
26 the party signing the certificate not less than thirty days prior to the
27 date of delivery to the department of state and that such domestic
28 limited partnership has not objected thereto; and that the party signing

1 the certificate is the agent of such limited partnership to whose
2 address [the secretary of state] a person is required to mail copies of
3 process served on the secretary of state or the registered agent, if
4 such be the case. A certificate signed and delivered under this subdivi-
5 sion shall not be deemed to effect a change of location of the office of
6 the limited partnership in whose behalf such certificate is filed.

7 § 62. Paragraph 4 of subdivision (a) and subparagraph 5 of paragraph
8 (i) of subdivision (d) of section 121-902 of the partnership law, para-
9 graph 4 of subdivision (a) as amended by chapter 172 of the laws of 1999
10 and subparagraph 5 of paragraph (i) of subdivision (d) as amended by
11 chapter 44 of the laws of 2006, are amended to read as follows:

12 (4) a designation of the secretary of state as its agent upon whom
13 process against it may be served and the post office address, within or
14 without this state, to which [the secretary of state] a person shall
15 mail a copy of any process against it served upon [him] the secretary of
16 state;

17 (5) a statement that the secretary of state has been designated as its
18 agent upon whom process against it may be served and the post office
19 address, within or without this state, to which [the secretary of state]
20 a person shall mail a copy of any process against it served upon [him or
21 her] the secretary of state;

22 § 63. Section 121-903-A of the partnership law, as added by chapter
23 448 of the laws of 1998, is amended to read as follows:

24 § 121-903-A. Certificate of change. (a) A foreign limited partnership
25 may change its application for authority by filing with the department
26 of state a certificate of change entitled "Certificate of Change
27 of (name of limited partnership) under Section 121-903-A of the
28 Revised Limited Partnership Act" and shall be signed and delivered to

1 the department of state. A certificate of change may (i) change the
2 location of the limited partnership's office; (ii) change the post
3 office address to which [the secretary of state] a person shall mail a
4 copy of process against the limited partnership served upon [him] the
5 secretary of state; and (iii) make, revoke or change the designation of
6 a registered agent, or to specify or change the address of its regis-
7 tered agent. It shall set forth:

8 (1) the name of the foreign limited partnership and, if applicable,
9 the fictitious name the foreign limited partnership has agreed to use in
10 this state pursuant to section 121-902 of this article;

11 (2) the date its application for authority was filed by the department
12 of state; and

13 (3) each change effected thereby.

14 (b) A certificate of change which changes only the post office address
15 to which [the secretary of state] a person shall mail a copy of any
16 process against a foreign limited partnership served upon [him or] the
17 secretary of state and/or the address of the registered agent, provided
18 such address being changed is the address of a person, partnership,
19 limited liability company or corporation whose address, as agent, is the
20 address to be changed or who has been designated as registered agent for
21 such foreign limited partnership shall be signed and delivered to the
22 department of state by such agent. The certificate of change shall set
23 forth the statements required under subdivision (a) of this section;
24 that a notice of the proposed change was mailed to the foreign limited
25 partnership by the party signing the certificate not less than thirty
26 days prior to the date of delivery to the department of state and that
27 such foreign limited partnership has not objected thereto; and that the
28 party signing the certificate is the agent of such foreign limited part-

1 nership to whose address [the secretary of state] a person is required
2 to mail copies of process served on the secretary of state or the regis-
3 tered agent, if such be the case. A certificate signed and delivered
4 under this subdivision shall not be deemed to effect a change of
5 location of the office of the limited partnership in whose behalf such
6 certificate is filed.

7 § 64. Paragraph 6 of subdivision (b) of section 121-905 of the part-
8 nership law, as added by chapter 950 of the laws of 1990, is amended to
9 read as follows:

10 (6) a post office address, within or without this state, to which [the
11 secretary of state] a person shall mail a copy of any process against it
12 served upon [him] the secretary of state.

13 § 65. Paragraph 7 of subdivision (a) of section 121-1103 of the part-
14 nership law, as added by chapter 950 of the laws of 1990, is amended to
15 read as follows:

16 (7) A designation of the secretary of state as its agent upon whom
17 process against it may be served in the manner set forth in section
18 121-109 of this article in any action or special proceeding, and a post
19 office address, within or without this state, to which [the secretary of
20 state] a person shall mail a copy of any process served upon [him] the
21 secretary of state. Such post office address shall supersede any prior
22 address designated as the address to which process shall be mailed.

23 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
24 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
25 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
26 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
27 chapter 643 of the laws of 1995 and such paragraph as redesignated by
28 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of

1 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
2 to read as follows:

3 (2) the address, within this state, of the principal office of the
4 partnership without limited partners;

5 (4) a designation of the secretary of state as agent of the partner-
6 ship without limited partners upon whom process against it may be served
7 and the post office address, within or without this state, to which the
8 [secretary of state] a person shall mail a copy of any process against
9 it or served [upon it] on the secretary of state;

10 (4) a statement that the secretary of state has been designated as
11 agent of the registered limited liability partnership upon whom process
12 against it may be served and the post office address, within or without
13 this state, to which [the secretary of state] a person shall mail a copy
14 of any process against it served upon [him or her] the secretary of
15 state;

16 § 67. Paragraphs (ii) and (iii) of subdivision (g) of section 121-1500
17 of the partnership law, as amended by section 8 of part S of chapter 59
18 of the laws of 2015, are amended to read as follows:

19 (ii) the address, within this state, of the principal office of the
20 registered limited liability partnership, (iii) the post office address,
21 within or without this state, to which [the secretary of state] a person
22 shall mail a copy of any process accepted against it served upon [him or
23 her] the secretary of state, which address shall supersede any previous
24 address on file with the department of state for this purpose, and

25 § 68. Subdivision (j-1) of section 121-1500 of the partnership law, as
26 added by chapter 448 of the laws of 1998, is amended to read as follows:

27 (j-1) A certificate of change which changes only the post office
28 address to which [the secretary of state] a person shall mail a copy of

1 any process against a registered limited liability partnership served
2 upon [him] the secretary of state and/or the address of the registered
3 agent, provided such address being changed is the address of a person,
4 partnership, limited liability company or corporation whose address, as
5 agent, is the address to be changed or who has been designated as regis-
6 tered agent for such registered limited liability partnership shall be
7 signed and delivered to the department of state by such agent. The
8 certificate of change shall set forth: (i) the name of the registered
9 limited liability partnership and, if it has been changed, the name
10 under which it was originally filed with the department of state; (ii)
11 the date of filing of its initial registration or notice statement;
12 (iii) each change effected thereby; (iv) that a notice of the proposed
13 change was mailed to the limited liability partnership by the party
14 signing the certificate not less than thirty days prior to the date of
15 delivery to the department of state and that such limited liability
16 partnership has not objected thereto; and (v) that the party signing the
17 certificate is the agent of such limited liability partnership to whose
18 address [the secretary of state] a person is required to mail copies of
19 process served on the secretary of state or the registered agent, if
20 such be the case. A certificate signed and delivered under this subdivi-
21 sion shall not be deemed to effect a change of location of the office of
22 the limited liability partnership in whose behalf such certificate is
23 filed. The certificate of change shall be accompanied by a fee of five
24 dollars.

25 § 69. Subdivision (a) of section 121-1502 of the partnership law, as
26 amended by chapter 643 of the laws of 1995, paragraph (v) as amended by
27 chapter 470 of the laws of 1997, is amended to read as follows:

1 (a) In order for a foreign limited liability partnership to carry on
2 or conduct or transact business or activities as a New York registered
3 foreign limited liability partnership in this state, such foreign limit-
4 ed liability partnership shall file with the department of state a
5 notice which shall set forth: (i) the name under which the foreign
6 limited liability partnership intends to carry on or conduct or transact
7 business or activities in this state; (ii) the date on which and the
8 jurisdiction in which it registered as a limited liability partnership;
9 (iii) the address, within this state, of the principal office of the
10 foreign limited liability partnership; (iv) the profession or
11 professions to be practiced by such foreign limited liability partner-
12 ship and a statement that it is a foreign limited liability partnership
13 eligible to file a notice under this chapter; (v) a designation of the
14 secretary of state as agent of the foreign limited liability partnership
15 upon whom process against it may be served and the post office address
16 within or without this state, to which [the secretary of state] a person
17 shall mail a copy of any process against it [or] served upon [it] the
18 secretary of state; (vi) if the foreign limited liability partnership is
19 to have a registered agent, its name and address in this state and a
20 statement that the registered agent is to be the agent of the foreign
21 limited liability partnership upon whom process against it may be
22 served; (vii) a statement that its registration as a limited liability
23 partnership is effective in the jurisdiction in which it registered as a
24 limited liability partnership at the time of the filing of such notice;
25 (viii) a statement that the foreign limited liability partnership is
26 filing a notice in order to obtain status as a New York registered
27 foreign limited liability partnership; (ix) if the registration of the
28 foreign limited liability partnership is to be effective on a date later

1 than the time of filing, the date, not to exceed sixty days from the
2 date of filing, of such proposed effectiveness; and (x) any other
3 matters the foreign limited liability partnership determines to include
4 in the notice. Such notice shall be accompanied by either (1) a copy of
5 the last registration or renewal registration (or similar filing), if
6 any, filed by the foreign limited liability partnership with the juris-
7 diction where it registered as a limited liability partnership or (2) a
8 certificate, issued by the jurisdiction where it registered as a limited
9 liability partnership, substantially to the effect that such foreign
10 limited liability partnership has filed a registration as a limited
11 liability partnership which is effective on the date of the certificate
12 (if such registration, renewal registration or certificate is in a
13 foreign language, a translation thereof under oath of the translator
14 shall be attached thereto). Such notice shall also be accompanied by a
15 fee of two hundred fifty dollars.

16 § 70. Subparagraphs (ii) and (iii) of paragraph (I) of subdivision (f)
17 of section 121-1502 of the partnership law, as amended by section 9 of
18 part S of chapter 59 of the laws of 2015, are amended to read as
19 follows:

20 (ii) the address, within this state, of the principal office of the
21 New York registered foreign limited liability partnership, (iii) the
22 post office address, within or without this state, to which [the secre-
23 tary of state] a person shall mail a copy of any process accepted
24 against it served upon [him or her] the secretary of state, which
25 address shall supersede any previous address on file with the department
26 of state for this purpose, and

1 § 71. Clause 5 of subparagraph (A) of paragraph (II) of subdivision
2 (f) of section 121-1502 of the partnership law, as amended by chapter 44
3 of the laws of 2006, is amended to read as follows:

4 (5) a statement that the secretary of state has been designated as
5 agent of the foreign limited liability partnership upon whom process
6 against it may be served and the post office address, within or without
7 this state, to which [the secretary of state] a person shall mail a copy
8 of any process against it served upon [him or her] the secretary of
9 state;

10 § 72. Subdivision (i-1) of section 121-1502 of the partnership law, as
11 added by chapter 448 of the laws of 1998, is amended to read as follows:

12 (i-1) A certificate of change which changes only the post office
13 address to which [the secretary of state] a person shall mail a copy of
14 any process against a New York registered foreign limited liability
15 partnership served upon [him] the secretary of state and/or the address
16 of the registered agent, provided such address being changed is the
17 address of a person, partnership, limited liability company or corpo-
18 ration whose address, as agent, is the address to be changed or who has
19 been designated as registered agent of such registered foreign limited
20 liability partnership shall be signed and delivered to the department of
21 state by such agent. The certificate of change shall set forth: (i) the
22 name of the New York registered foreign limited liability partnership;
23 (ii) the date of filing of its initial registration or notice statement;
24 (iii) each change effected thereby; (iv) that a notice of the proposed
25 change was mailed to the limited liability partnership by the party
26 signing the certificate not less than thirty days prior to the date of
27 delivery to the department of state and that such limited liability
28 partnership has not objected thereto; and (v) that the party signing the

1 certificate is the agent of such limited liability partnership to whose
2 address [the secretary of state] a person is required to mail copies of
3 process served on the secretary of state or the registered agent, if
4 such be the case. A certificate signed and delivered under this subdivi-
5 sion shall not be deemed to effect a change of location of the office of
6 the limited liability partnership in whose behalf such certificate is
7 filed. The certificate of change shall be accompanied by a fee of five
8 dollars.

9 § 73. Subdivision (a) of section 121-1505 of the partnership law, as
10 added by chapter 470 of the laws of 1997, is amended and two new subdi-
11 visions (d) and (e) are added to read as follows:

12 (a) Service of process on the secretary of state as agent of a regis-
13 tered limited liability partnership or New York registered foreign
14 limited liability partnership under this article shall be made by mail-
15 ing the process and notice of service thereof by certified mail, return
16 receipt requested, to such registered limited liability partnership or
17 New York registered foreign limited liability partnership, at the post
18 office address on file in the department of state specified for such
19 purpose. On the same date that such process is mailed, a duplicate copy
20 of such process and proof of mailing together with the statutory fee,
21 which fee shall be a taxable disbursement, shall be personally [deliver-
22 ing] delivered to and [leaving] left with the secretary of state or a
23 deputy, or with any person authorized by the secretary of state to
24 receive such service, at the office of the department of state in the
25 city of Albany, [duplicate copies of such process] together with the
26 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
27 ing shall be by affidavit of compliance with this section. Service of
28 process on such registered limited liability partnership or New York

1 registered foreign limited liability partnership shall be complete when
2 the secretary of state is so served. [The secretary of state shall
3 promptly send one of such copies by certified mail, return receipt
4 requested, to such registered limited liability partnership, at the post
5 office address on file in the department of state specified for such
6 purpose.]

7 (d) The department of state shall keep a record of each process served
8 upon the secretary of state under this chapter, including the date of
9 such service. It shall, upon request made within ten years of such
10 service, issue a certificate under its seal certifying as to the receipt
11 of the process by an authorized person, the date and place of such
12 service and the receipt of the statutory fee. Process served upon the
13 secretary of state under this chapter shall be destroyed by the depart-
14 ment of state after a period of ten years from such service.

15 (e) Any designated post office address maintained by the secretary of
16 state as agent of a registered limited liability partnership or New York
17 registered foreign limited liability partnership for the purpose of
18 mailing process shall be the post office address, within or without the
19 state, to which a person shall mail process against such limited liabil-
20 ity company as required by this article. Such address shall continue
21 until the filing of a certificate under this chapter directing the mail-
22 ing to a different post office address.

23 § 74. Subdivision (b) of section 121-1506 of the partnership law, as
24 added by chapter 448 of the laws of 1998, paragraph 4 as amended by
25 chapter 172 of the laws of 1999, is amended to read as follows:

26 (b) The party (or the party's legal representative) whose post office
27 address has been supplied by a limited liability partnership as its
28 address for process may resign. A certificate entitled "Certificate of

1 Resignation for Receipt of Process under Section 121-1506(b) of the
2 Partnership Law" shall be signed by such party and delivered to the
3 department of state. It shall set forth:

4 (1) The name of the limited liability partnership and the date that
5 its certificate of registration was filed by the department of state.

6 (2) That the address of the party has been designated by the limited
7 liability partnership as the post office address to which [the secretary
8 of state] a person shall mail a copy of any process served on the secre-
9 tary of state as agent for such limited liability partnership and that
10 such party wishes to resign.

11 (3) That at least sixty days prior to the filing of the certificate of
12 resignation for receipt of process with the department of state the
13 party has sent a copy of the certificate of resignation for receipt of
14 process by registered or certified mail to the address of the registered
15 agent of the [designated] designating limited liability partnership, if
16 other than the party filing the certificate of resignation, for receipt
17 of process, or if the [resigning] designating limited liability partner-
18 ship has no registered agent, then to the last address of the [desig-
19 nated] designating limited liability partnership, known to the party,
20 specifying the address to which the copy was sent. If there is no regis-
21 tered agent and no known address of the designating limited liability
22 partnership the party shall attach an affidavit to the certificate stat-
23 ing that a diligent but unsuccessful search was made by the party to
24 locate the limited liability partnership, specifying what efforts were
25 made.

26 (4) That the [designated] designating limited liability partnership is
27 required to deliver to the department of state a certificate of amend-
28 ment providing for the designation by the limited liability partnership

1 of a new address and that upon its failure to file such certificate, its
2 authority to do business in this state shall be suspended.

3 § 75. Paragraph 16 of subdivision 1 of section 103 of the private
4 housing finance law, as added by chapter 22 of the laws of 1970, is
5 amended to read as follows:

6 (16) A designation of the secretary of state as agent of the corpo-
7 ration upon whom process against it may be served and the post office
8 address, within or without this state, to which [the secretary of state]
9 a person shall mail a copy of any process against it served upon [him]
10 the secretary of state.

11 § 76. Subdivision 7 of section 339-n of the real property law is
12 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

13 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural
14 affairs law, as added by chapter 656 of the laws of 1991, is amended to
15 read as follows:

16 15. "Non-institutional portion" shall mean the part or portion of a
17 combined-use facility other than the institutional portion. If the non-
18 institutional portion, or any part thereof, consists of a condominium,
19 the consent of the trust which has developed or approved the developer
20 of such condominium shall be required prior to any amendment of the
21 declaration of such condominium pursuant to subdivision [nine] eight of
22 section three hundred thirty-nine-n of the real property law and prior
23 to any amendment of the by-laws of such condominium pursuant to para-
24 graph (j) of subdivision one of section three hundred thirty-nine-v of
25 the real property law, and whether or not such trust is a unit owner of
26 such condominium, it may exercise the rights of the board of managers
27 and an aggrieved unit owner under section three hundred thirty-nine-j of
28 the real property law in the case of a failure of any unit owner of such

1 condominium to comply with the by-laws of such condominium and with the
2 rules, regulations, and decisions adopted pursuant thereto.

3 § 77. Subdivision 2 of section 339-s of the real property law, as
4 added by chapter 346 of the laws of 1997, is amended to read as follows:

5 2. [Each such declaration, and any amendment or amendments thereof
6 shall be filed with the department of state] (a) The board of managers
7 for each condominium subject to this article shall file with the secre-
8 tary of state a certificate, in writing, signed, designating the secre-
9 tary of state as agent of the board of managers upon whom process
10 against it may be served and the post office address to which a person
11 shall mail a copy of such process. The certificate shall be accompanied
12 by a fee of sixty dollars.

13 (b) Any board of managers may change the address to which a person
14 shall mail a copy of process served upon the secretary of state, by
15 filing a signed certificate of amendment with the department of state.
16 Such certificate shall be accompanied by a fee of sixty dollars.

17 (c) Service of process on the secretary of state as agent of a board
18 of managers shall be made by mailing the process and notice of service
19 of process pursuant to this section by certified mail, return receipt
20 requested, to such board of managers, at the post office address on file
21 in the department of state specified for this purpose. On the same day
22 that such process is mailed, a duplicate copy of such process and proof
23 of mailing shall be personally delivered to and left with the secretary
24 of state or a deputy, or with any person authorized by the secretary of
25 state to receive such service, at the office of the department of state
26 in the city of Albany, a duplicate copy of such process with proof of
27 mailing together with the statutory fee, which shall be a taxable
28 disbursement. Proof of mailing shall be by affidavit of compliance with

1 this section. Service of process on a board of managers shall be
2 complete when the secretary of state is so served.

3 (d) As used in this article, "process" shall mean judicial process and
4 all orders, demands, notices or other papers required or permitted by
5 law to be personally served on a board of managers, for the purpose of
6 acquiring jurisdiction of such board of managers in any action or
7 proceeding, civil or criminal, whether judicial, administrative, arbi-
8 trative or otherwise, in this state or in the federal courts sitting in
9 or for this state.

10 (e) Nothing in this section shall affect the right to serve process in
11 any other manner permitted by law.

12 (f) The department of state shall keep a record of each process served
13 under this section, including the date of service. It shall, upon
14 request, made within ten years of such service, issue a certificate
15 under its seal certifying as to the receipt of process by an authorized
16 person, the date and place of such service and the receipt of the statu-
17 tory fee. Process served on the secretary of state under this section
18 shall be destroyed by the department of state after a period of ten
19 years from such service.

20 (g) Any designated post office address maintained by the secretary of
21 state as agent of the board of managers for the purpose of mailing proc-
22 ess shall be the post office address, within or without the state, to
23 which a person shall mail process against such board as required by this
24 article. Such address shall continue until the filing of a certificate
25 under this chapter directing the mailing to a different post office
26 address.

1 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,
2 as amended by chapter 482 of the laws of 1963, are amended to read as
3 follows:

4 3. Service of such process upon the secretary of state shall be made
5 by personally delivering to and leaving with [him or his] the secretary
6 of state or a deputy, or with any person authorized by the secretary of
7 state to receive such service, at the office of the department of state
8 in the city of Albany, [duplicate copies] a copy of such process and
9 proof of mailing together with a fee of five dollars if the action is
10 solely for the recovery of a sum of money not in excess of two hundred
11 dollars and the process is so endorsed, and a fee of ten dollars in any
12 other action or proceeding, which fee shall be a taxable disbursement.
13 If such process is served upon behalf of a county, city, town or
14 village, or other political subdivision of the state, the fee to be paid
15 to the secretary of state shall be five dollars, irrespective of the
16 amount involved or the nature of the action on account of which such
17 service of process is made. [If the cost of registered mail for trans-
18 mitting a copy of the process shall exceed two dollars, an additional
19 fee equal to such excess shall be paid at the time of the service of
20 such process.] Proof of mailing shall be by affidavit of compliance with
21 this section. Proof of service shall be by affidavit of compliance with
22 this subdivision filed by or on behalf of the plaintiff together with
23 the process, within ten days after such service, with the clerk of the
24 court in which the action or special proceeding is pending. Service
25 made as provided in this section shall be complete ten days after such
26 papers are filed with the clerk of the court and shall have the same
27 force and validity as if served on him personally within the state and

1 within the territorial jurisdiction of the court from which the process
2 issues.

3 4. The [secretary of state] person serving such process shall [prompt-
4 ly] send [one of] such [copies] process by [registered] certified mail,
5 return receipt requested, to the nonresident broker or nonresident
6 salesman at the post office address of his main office as set forth in
7 the last application filed by him.

8 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-
9 ter 100 of the laws of 1964, is amended to read as follows:

10 2. Every foreign corporation (other than a moneyed corporation)
11 subject to the provisions of this article, except a corporation having a
12 certificate of authority [under section two hundred twelve of the gener-
13 al corporation law] or having authority to do business by virtue of
14 section thirteen hundred five of the business corporation law, shall
15 file in the department of state a certificate of designation in its
16 corporate name, signed and acknowledged by its president or a vice-pre-
17 sident or its secretary or treasurer, under its corporate seal, desig-
18 nating the secretary of state as its agent upon whom process in any
19 action provided for by this article may be served within this state, and
20 setting forth an address to which [the secretary of state] a person
21 shall mail a copy of any such process against the corporation which may
22 be served upon [him] the secretary of state. In case any such corpo-
23 ration shall have failed to file such certificate of designation, it
24 shall be deemed to have designated the secretary of state as its agent
25 upon whom such process against it may be served; and until a certificate
26 of designation shall have been filed the corporation shall be deemed to
27 have directed [the secretary of state] a person serving process to mail
28 copies of process served upon [him] the secretary of state to the corpo-

1 ration at its last known office address within or without the state.
2 When a certificate of designation has been filed by such corporation
3 [the secretary of state] a person serving process shall mail copies of
4 process thereafter served upon [him] the secretary of state to the
5 address set forth in such certificate. Any such corporation, from time
6 to time, may change the address to which [the secretary of state] a
7 person is directed to mail copies of process, by filing a certificate to
8 that effect executed, signed and acknowledged in like manner as a
9 certificate of designation as herein provided. Service of process upon
10 any such corporation or upon any corporation having a certificate of
11 authority [under section two hundred twelve of the general corporation
12 law] or having authority to do business by virtue of section thirteen
13 hundred five of the business corporation law, in any action commenced at
14 any time pursuant to the provisions of this article, may be made by
15 either (1) personally delivering to and leaving with the secretary of
16 state, a deputy secretary of state or with any person authorized by the
17 secretary of state to receive such service [duplicate copies] a copy
18 thereof at the office of the department of state in the city of Albany,
19 in which event [the secretary of state] a person serving such process
20 shall forthwith send by [registered] certified mail, return receipt
21 requested, [one of such copies] a duplicate copy to the corporation at
22 the address designated by it or at its last known office address within
23 or without the state, or (2) personally delivering to and leaving with
24 the secretary of state, a deputy secretary of state or with any person
25 authorized by the secretary of state to receive such service, a copy
26 thereof at the office of the department of state in the city of Albany
27 and by delivering a copy thereof to, and leaving such copy with, the
28 president, vice-president, secretary, assistant secretary, treasurer,

1 assistant treasurer, or cashier of such corporation, or the officer
2 performing corresponding functions under another name, or a director or
3 managing agent of such corporation, personally without the state. Proof
4 of such personal service without the state shall be filed with the clerk
5 of the court in which the action is pending within thirty days after
6 such service, and such service shall be complete ten days after proof
7 thereof is filed.

8 § 80. Section 216 of the tax law, as added by chapter 415 of the laws
9 of 1944, the opening paragraph as amended by chapter 100 of the laws of
10 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
11 read as follows:

12 § 216. Collection of taxes. Every foreign corporation (other than a
13 moneyed corporation) subject to the provisions of this article, except a
14 corporation having a certificate of authority [under section two hundred
15 twelve of the general corporation law] or having authority to do busi-
16 ness by virtue of section thirteen hundred five of the business corpo-
17 ration law, shall file in the department of state a certificate of
18 designation in its corporate name, signed and acknowledged by its presi-
19 dent or a vice-president or its secretary or treasurer, under its corpo-
20 rate seal, designating the secretary of state as its agent upon whom
21 process in any action provided for by this article may be served within
22 this state, and setting forth an address to which [the secretary of
23 state] a person shall mail a copy of any such process against the corpo-
24 ration which may be served upon [him] the secretary of state. In case
25 any such corporation shall have failed to file such certificate of
26 designation, it shall be deemed to have designated the secretary of
27 state as its agent upon whom such process against it may be served; and
28 until a certificate of designation shall have been filed the corporation

1 shall be deemed to have directed [the secretary of state] a person to
2 mail [copies] a copy of process served upon [him] the secretary of state
3 to the corporation at its last known office address within or without
4 the state. When a certificate of designation has been filed by such
5 corporation [the secretary of state] a person serving such process shall
6 mail [copies] a copy of process thereafter served upon [him] a person
7 serving such process to the address set forth in such certificate. Any
8 such corporation, from time to time, may change the address to which
9 [the secretary of state] a person is directed to mail copies of process,
10 by filing a certificate to that effect executed, signed and acknowledged
11 in like manner as a certificate of designation as herein provided.
12 Service of process upon any such corporation or upon any corporation
13 having a certificate of authority [under section two hundred twelve of
14 the general corporation law] or having authority to do business by
15 virtue of section thirteen hundred five of the business corporation law,
16 in any action commenced at any time pursuant to the provisions of this
17 article, may be made by either (1) personally delivering to and leaving
18 with the secretary of state, a deputy secretary of state or with any
19 person authorized by the secretary of state to receive such service
20 [duplicate copies] a copy thereof at the office of the department of
21 state in the city of Albany, in which event [the secretary of state] a
22 person serving such process shall forthwith send by [registered] certi-
23 fied mail, return receipt requested, [one of such copies] a duplicate
24 copy to the corporation at the address designated by it or at its last
25 known office address within or without the state, or (2) personally
26 delivering to and leaving with the secretary of state, a deputy secre-
27 tary of state or with any person authorized by the secretary of state to
28 receive such service, a copy thereof at the office of the department of

1 state in the city of Albany and by delivering a copy thereof to, and
2 leaving such copy with, the president, vice-president, secretary,
3 assistant secretary, treasurer, assistant treasurer, or cashier of such
4 corporation, or the officer performing corresponding functions under
5 another name, or a director or managing agent of such corporation,
6 personally without the state. Proof of such personal service without
7 the state shall be filed with the clerk of the court in which the action
8 is pending within thirty days after such service, and such service shall
9 be complete ten days after proof thereof is filed.

10 § 81. Subdivisions (a) and (b) of section 310 of the tax law, as added
11 by chapter 400 of the laws of 1983, are amended to read as follows:

12 (a) Designation for service of process.--Every petroleum business
13 which is a corporation, except such a petroleum business having a
14 certificate of authority [under section two hundred twelve of the gener-
15 al corporation law] or having authority to do business by virtue of
16 section thirteen hundred five of the business corporation law, shall
17 file in the department of state a certificate of designation in its
18 corporate name, signed and acknowledged by its president or vice-presi-
19 dent or its secretary or treasurer, under its corporate seal, designat-
20 ing the secretary of state as its agent upon whom process in any action
21 provided for by this article may be served within this state, and
22 setting forth an address to which [the secretary of state] a person
23 shall mail a copy of any such process against such petroleum business
24 which may be served upon [him] the secretary of state. In case any such
25 petroleum business shall have failed to file such certificate of desig-
26 nation, it shall be deemed to have designated the secretary of state as
27 its agent upon whom such process against it may be served; and until a
28 certificate of designation shall have been filed such a petroleum busi-

1 ness shall be deemed to have directed [the secretary of state] a person
2 to mail copies of process served upon [him] the secretary of state to
3 such petroleum business at its last known office address within or with-
4 out the state. When a certificate of designation has been filed by such
5 a petroleum business [the secretary of state] a person serving process
6 shall mail copies of process thereafter served upon [him] the secretary
7 of state to the address set forth in such certificate. Any such petrole-
8 um business, from time to time, may change the address to which [the
9 secretary of state] a person is directed to mail copies of process, by
10 filing a certificate to that effect executed, signed and acknowledged in
11 like manner as a certificate of designation as herein provided.

12 (b) Service of process.--Service of process upon any petroleum busi-
13 ness which is a corporation (including any such petroleum business
14 having a certificate of authority [under section two hundred twelve of
15 the general corporation law] or having authority to do business by
16 virtue of section thirteen hundred five of the business corporation
17 law), in any action commenced at any time pursuant to the provisions of
18 this article, may be made by either (1) personally delivering to and
19 leaving with the secretary of state, a deputy secretary of state or with
20 any person authorized by the secretary of state to receive such service
21 [duplicate copies] a copy thereof at the office of the department of
22 state in the city of Albany, in which event [the secretary of state] a
23 person serving process shall forthwith send by [registered] certified
24 mail, return receipt requested, [one of such copies] a duplicate copy to
25 such petroleum business at the address designated by it or at its last
26 known office address within or without the state, or (2) personally
27 delivering to and leaving with the secretary of state, a deputy secre-
28 tary of state or with any person authorized by the secretary of state to

1 receive such service, a copy thereof at the office of the department of
2 state in the city of Albany and by delivering a copy thereof to, and
3 leaving such copy with, the president, vice-president, secretary,
4 assistant secretary, treasurer, assistant treasurer, or cashier of such
5 petroleum business, or the officer performing corresponding functions
6 under another name, or a director or managing agent of such petroleum
7 business, personally without the state. Proof of such personal service
8 without the state shall be filed with the clerk of the court in which
9 the action is pending within thirty days after such service, and such
10 service shall be complete ten days after proof thereof is filed.

11 § 82. This act shall take effect on the one hundred twentieth day
12 after it shall have become a law.

13 PART R

14 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
15 executive law relating to permitting the secretary of state to provide
16 special handling for all documents filed or issued by the division of
17 corporations and to permit additional levels of such expedited service,
18 as amended by section 1 of part S of chapter 58 of the laws of 2018, is
19 amended to read as follows:

20 § 2. This act shall take effect immediately, provided however, that
21 section one of this act shall be deemed to have been in full force and
22 effect on and after April 1, 2003 and shall expire March 31, [2019]
23 2020.

24 § 2. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after March 31, 2019.

1 PART S

2 Section 1. The first undesignated paragraph of subdivision 24-b of
3 section 10 of the highway law, as amended by chapter 155 of laws of
4 1985, is amended to read as follows:

5 Have power, whenever such commissioner of transportation deems it is
6 necessary as a result of work of construction, reconstruction or mainte-
7 nance of state highways, to provide for the removal, relocation,
8 replacement or reconstruction of privately, publicly or cooperatively
9 owned water, storm and sewer lines and facilities, facilities for the
10 transmission and/or distribution of communications, power, electricity,
11 light, heat, gas, crude products, steam and other similar commodities,
12 municipal utility facilities, or facilities of a corporation organized
13 pursuant to the transportation corporations law that are located on
14 privately owned property. Notwithstanding any other provision of any
15 law, the commissioner of transportation may enter into an agreement with
16 a fiber optic utility for occupancy of the state right of way, provided
17 however, any provider occupying a right of way in fulfillment of a state
18 grant award through the New NY Broadband Program shall not be subject to
19 a fee for such occupancy, and provided further, any fee for occupancy
20 charged to a fiber optic utility shall be prohibited from being passed
21 through in whole or in part as a fee, charge, increased service cost, or
22 by any other means by a fiber optic utility to any person or entity that
23 contracts with such fiber optic utility for service, and provided
24 further that any compensation received by the state pursuant to such
25 agreement shall be deposited by the comptroller into the special obli-
26 gation reserve and payment account of the dedicated highway and bridge
27 trust fund established pursuant to section eighty-nine-b of the state

1 finance law. If such work requires additional property or if it is
2 necessary that the relocation of such facilities be made to other prop-
3 erty, he may acquire such property as may be necessary for the purposes
4 of this subdivision, in the same manner as other property is acquired
5 for state highway purposes pursuant to this chapter, and he and the
6 owner of such facilities may enter into a written agreement to convey
7 such property as deemed necessary for the purposes of this subdivision
8 to such owner on terms beneficial to the state. The expense of such
9 removal, relocation, replacement or reconstruction and cost of property
10 acquisition shall be a proper charge against funds available for the
11 construction, reconstruction or maintenance of state highways. Except
12 when such facilities are owned by a corporation organized pursuant to
13 the transportation corporations law, the work of such removal, relo-
14 cation, replacement or reconstruction shall be performed by contract in
15 the same manner as provided for state highways in article three of this
16 chapter, or, by the use of departmental forces and equipment and of
17 materials purchased therefor, unless the commissioner of transportation
18 consents to having the owner of such facilities provide for the work of
19 such removal, relocation, replacement or reconstruction. In the case
20 where such facilities are owned by a corporation organized pursuant to
21 the transportation corporations law, the work of such removal, relo-
22 cation, replacement or reconstruction shall be provided for by such
23 corporation unless it consents to having the commissioner of transporta-
24 tion provide for such work to be performed by contract, in accordance
25 with specifications provided by such corporation, in the same manner as
26 provided for state highways in article three of this chapter, or, by the
27 use of departmental forces and equipment and of materials purchased

1 therefor. Upon the completion of the work, such facilities shall be
2 maintained by the owners thereof.

3 § 2. The transportation corporations law is amended by adding a new
4 section 7 to read as follows:

5 § 7. Agreement for fiber optic utility occupancy of state right of
6 way. Notwithstanding any other provision of any law, the commissioner
7 of transportation may enter into an agreement with a fiber optic utility
8 for occupancy of the state right of way, provided however, any provider
9 occupying a right of way in fulfillment of a state grant award through
10 the New NY Broadband Program shall not be subject to a fee for such
11 occupancy, and provided further, any fee for occupancy charged to a
12 fiber optic utility shall be prohibited from being passed through in
13 whole or in part as a fee, charge, increased service cost, or by any
14 other means by a fiber optic utility to any person or entity that
15 contracts with such fiber optic utility for service, and provided
16 further that any compensation received by the state pursuant to such
17 agreement shall be deposited by the comptroller into the special obli-
18 gation reserve and payment account of the dedicated highway and bridge
19 trust fund established pursuant to section eighty-nine-b of the state
20 finance law.

21 § 3. This act shall take effect immediately.

22 PART T

23 Section 1. Items (a) and (b) of subparagraph (v) of paragraph c of
24 subdivision 2 and subdivision 9 of section 140 of the transportation
25 law, items (a) and (b) of subparagraph (v) of paragraph c of subdivision
26 2 as amended by section 10 of part K of chapter 59 of the laws of 2009

1 and such paragraph as relettered by section 6 of part G of chapter 58 of
2 the laws of 2012 and subdivision 9 as amended by chapter 349 of the laws
3 of 1993, are amended to read as follows:

4 (a) [A driver who is convicted of violating an out-of-service order as
5 provided for in the department's safety rules and regulations shall be
6 guilty of a traffic infraction which shall be punishable by a fine of
7 not less than two thousand five hundred dollars nor more than four thou-
8 sand dollars upon the first offense, and upon being found guilty of a
9 second or subsequent offense within eighteen months by a fine of not
10 less than five thousand dollars nor more than six thousand dollars.] A
11 person who knowingly and willfully violates an out-of-service order as
12 provided for in the department's safety rules and regulations, or who
13 knowingly and willfully removes an out-of-service sticker from a commer-
14 cial motor vehicle as defined by section five hundred one-a of the vehi-
15 cle and traffic law without the authority of the department, shall be
16 guilty of a class D felony. Upon making an arrest for any violation of
17 this subdivision, or pursuant to the authority of a warrant issued under
18 article six hundred ninety of the criminal procedure law, an officer
19 shall remove or arrange for the removal of the vehicle or vehicles used
20 in the commission of the offense to a garage, automobile pound, or other
21 place of safety where it shall remain impounded subject to the
22 provisions of subdivisions two through seven of section five hundred
23 eleven-b of the vehicle and traffic law and the vehicle shall be entered
24 into the New York statewide police information network as an impounded
25 vehicle and the impounding police department shall promptly notify the
26 owner and the local authority that the vehicle has been impounded. Upon
27 conviction as a second or subsequent offender as described herein the
28 court may order forfeiture of any right, title or interest held by the

1 defendant in any motor vehicle used in the commission of such offense.
2 In the alternative, upon conviction as a second or subsequent offender
3 as described herein, an action for forfeiture may be commenced by the
4 attorney general on behalf of the commissioner or the corporation coun-
5 sel or designee on behalf of the city in any superior court in the coun-
6 ty of conviction. The defendant shall have a right to a trial by jury on
7 any issue of fact. The plaintiff in the forfeiture action shall have the
8 burden of proof by clear and convincing evidence on such issues of fact.

9 (b) No person, corporation, limited liability company or business
10 entity, joint stock association, partnership, or any officer or agent
11 thereof, shall knowingly allow, require, permit or authorize any person
12 to operate a commercial motor vehicle as defined by section five hundred
13 one-a of the vehicle and traffic law during any period in which such
14 person, such commercial motor vehicle, or such motor carrier operation
15 has been placed out of service as provided for in the department's safe-
16 ty rules and regulations and shall be [subject to a fine of not less
17 than two thousand seven hundred fifty dollars and not more than twenty-
18 five thousand dollars] guilty of a class D felony for any violation
19 thereof. Upon making an arrest for any violation of this subdivision, or
20 pursuant to the authority of a warrant issued under article six hundred
21 ninety of the criminal procedure law, an officer shall remove or arrange
22 for the removal of the vehicle or vehicles used in the commission of the
23 offense to a garage, automobile pound, or other place of safety where
24 it shall remain impounded subject to the provisions of subdivisions two
25 through seven of section five hundred eleven-b of the vehicle and traf-
26 fic law and the vehicle shall be entered into the New York statewide
27 police information network as an impounded vehicle and the impounding
28 police department shall promptly notify the owner and the local authori-

1 ty that the vehicle has been impounded. Upon conviction as a second or
2 subsequent offender as described herein the court may order forfeiture
3 of any right, title or interest held by the defendant in any motor vehi-
4 cle used in the commission of such offense. In the alternative, upon
5 conviction as a second or subsequent offender as described herein, an
6 action for forfeiture may be commenced by the attorney general on behalf
7 of the commissioner or the corporation counsel or designee on behalf of
8 the city in any superior court in the county of conviction. The defend-
9 ant shall have a right to a trial by jury on any issue of fact. The
10 plaintiff in the forfeiture action shall have the burden of proof by
11 clear and convincing evidence on such issues of fact.

12 9. (a) If, after notice and opportunity to be heard, the commissioner
13 shall find that any person is operating in violation of the provisions
14 of this section, the commissioner may penalize such person pursuant to
15 subdivision three of section one hundred forty-five of this article. The
16 commissioner may also notify the commissioner of motor vehicles that
17 such person is operating in violation of this section and the commis-
18 sioner of motor vehicles shall thereupon suspend the registration of all
19 motor vehicles owned or operated by such person, with the exception of
20 private passenger automobiles, until such time as the commissioner may
21 give notice that the violation has been satisfactorily adjusted. The
22 commissioner of motor vehicles may direct any police officer to secure
23 possession of the vehicle plates and to return the same to the commis-
24 sioner of motor vehicles. Failure of the holder or of any person
25 possessing the vehicle plates to deliver the vehicle plates to any
26 police officer who requests the same pursuant to this subdivision shall
27 be a class A misdemeanor. The commissioner of motor vehicles shall have
28 the authority to suspend, revoke or deny a registration or renewal

1 application to any other person for the same vehicle and may suspend,
2 revoke or deny a registration or renewal application for any other motor
3 vehicle registered in the name of the applicant where it has been deter-
4 mined that such registrant's intent has been to evade the purposes of
5 this subdivision and where the commissioner of motor vehicles has
6 reasonable grounds to believe that such registration or renewal will
7 have the effect of defeating the purposes of this subdivision. The
8 procedure on any such suspension shall be the same as in the case of a
9 suspension under the vehicle and traffic law. Operation of any motor
10 vehicle while under suspension as herein provided by any person with
11 knowledge of the suspension shall constitute a class [A misdemeanor] E
12 felony. Upon making an arrest or upon issuing an appearance ticket for
13 operating any motor vehicle while under suspension as herein provided by
14 any person with knowledge of the suspension, or pursuant to the authori-
15 ty of a warrant issued under article six hundred ninety of the criminal
16 procedure law, an officer shall remove or arrange for the removal of the
17 vehicle or vehicles used in the commission of the offense to a garage,
18 automobile pound, or other place of safety where it shall remain
19 impounded subject to the provisions of subdivisions two through seven of
20 section five hundred eleven-b of the vehicle and traffic law and the
21 vehicle shall be entered into the New York statewide police information
22 network as an impounded vehicle and the impounding police department
23 shall promptly notify the owner and the local authority that the vehicle
24 has been impounded. Upon conviction as a second or subsequent offender
25 as described herein the court may order forfeiture of any right, title
26 or interest held by the defendant in any motor vehicle used in the
27 commission of such offense.

1 **(b) Whenever the commissioner has reasonable grounds to believe that**
2 **any person is operating in violation of this section under circumstances**
3 **that endanger the health, safety, and welfare of the public, the commis-**
4 **sioner may: (i) immediately secure possession of the vehicle plates and**
5 **notify the commissioner of motor vehicles to that effect, or without**
6 **securing possession of the vehicle plates, immediately notify the**
7 **commissioner of motor vehicles to that effect, and the commissioner of**
8 **motor vehicles shall thereupon suspend the registration or registrations**
9 **of all motor vehicles owned or operated by such person, except private**
10 **passenger automobiles, until such time as the commissioner gives notice**
11 **that the violation has been satisfactorily adjusted provided, however,**
12 **that the commissioner give notice and opportunity to be heard within not**
13 **more than thirty days of the suspension; and (ii) after notice and**
14 **opportunity to be heard, penalize such person pursuant to subdivision**
15 **three of section one hundred forty-five of this article. When the regis-**
16 **tration or registrations of any motor vehicle is suspended pursuant to**
17 **this subdivision, the commissioner of motor vehicles may direct any**
18 **police officer to secure possession of the vehicle plates and to return**
19 **the same to the commissioner of motor vehicles. Failure of the holder or**
20 **of any person possessing the vehicle plates to deliver to the commis-**
21 **sioner or any police officer who requests the same pursuant to this**
22 **subdivision shall be a class A misdemeanor. The commissioner of motor**
23 **vehicles shall have the authority to suspend, revoke or deny a registra-**
24 **tion or renewal application to any other person for the same vehicle and**
25 **may suspend, revoke or deny a registration or renewal application for**
26 **any other motor vehicle registered in the name of the applicant where it**
27 **has been determined that such registrant's intent has been to evade the**
28 **purposes of this subdivision and where the commissioner of motor vehi-**

1 cles has reasonable grounds to believe that such registration or renewal
2 will have the effect of defeating the purposes of this section. The
3 procedure on any such suspension of vehicle registration shall be the
4 same as in the case of a suspension under the vehicle and traffic law.
5 Operation of any motor vehicle while under suspension as herein provided
6 by any person with knowledge of the suspension shall constitute a class
7 E felony. Upon making an arrest or upon issuing an appearance ticket for
8 any felony violation of this subdivision, or pursuant to the authority
9 of a warrant issued under article six hundred ninety of the criminal
10 procedure law, an officer shall remove or arrange for the removal of the
11 vehicle or vehicles used in the commission of the offense to a garage,
12 automobile pound, or other place of safety where it shall remain
13 impounded subject to the provisions of subdivisions two through seven of
14 section five hundred eleven-b of the vehicle and traffic law and the
15 vehicle shall be entered into the New York statewide police information
16 network as an impounded vehicle and the impounding police department
17 shall promptly notify the owner and the local authority that the vehicle
18 has been impounded. Upon conviction as a second or subsequent offender
19 as described herein the court may order forfeiture of any right, title
20 or interest held by the defendant in any motor vehicle used in the
21 commission of such offense. In the alternative, upon conviction as a
22 second or subsequent offender as described herein, an action for forfei-
23 ture may be commenced by the attorney general on behalf of the commis-
24 sioner or the corporation counsel or designee on behalf of the city in
25 any superior court in the county of conviction. The defendant shall have
26 a right to a trial by jury on any issue of fact. The plaintiff in the
27 forfeiture action shall have the burden of proof by clear and convincing
28 evidence on such issues of fact.

1 § 2. Section 145 of the transportation law, as added by chapter 635 of
2 the laws of 1983, subdivision 4 as amended by chapter 349 of the laws of
3 1993, subdivision 6 as amended by chapter 444 of the laws of 1992, para-
4 graph (a) of subdivision 7 as amended by chapter 475 of the laws of
5 1991, and subdivision 8 as added by section 6 of part C of chapter 57 of
6 the laws of 2014, is amended to read as follows:

7 § 145. Penalties and forfeitures for violations. 1. (a) Any certif-
8 icate or permit may, after a hearing, be suspended, cancelled, revoked
9 or modified, in whole or in part, for failure to comply with the
10 provisions of this chapter or with any lawful rule, order or regulation
11 of the commissioner promulgated hereunder or with any term, condition,
12 or limitation of such certificate or permit or for failure to render
13 reasonably continuous service within the scope of the certificate or
14 permit.

15 (b) Whenever the commissioner has reasonable grounds to believe that
16 failure to comply with the provisions of this chapter or with any lawful
17 rule, order or regulation of the commissioner promulgated hereunder or
18 with any term, condition, or limitation of such certificate or permit
19 endangers the health, safety, and welfare of the public, the commission-
20 er may immediately suspend, cancel, revoke, or modify, in whole or in
21 part, any certificate or permit issued pursuant to this chapter
22 provided, however, that the commissioner shall give notice and opportu-
23 nity to be heard within not more than thirty days of the suspension,
24 cancellation, revocation, or modification of the certificate or permit.

25 2. The commissioner may upon complaint or upon the commissioner's
26 initiative without complaint institute proceedings to revoke, cancel,
27 suspend or modify any certificate or permit issued pursuant to this
28 chapter after a hearing at which the holder of such certificate or

1 permit and any person making such complaint shall be given an opportu-
2 nity to be heard. Provided, however, that any order of the commissioner
3 revoking, cancelling, suspending or modifying any certificate or permit
4 shall not become effective until thirty days after the serving of notice
5 thereof upon the holder of such certificate or permit, unless the
6 commissioner determines that the continued holding of such certificate
7 or permit for such period would be contrary to the public interest.
8 Hearings shall be held in such manner and upon such notice as may be
9 prescribed by rules of the commissioner, but such notice shall be of not
10 less than ten days and shall state the nature of the complaint. The
11 commissioner may, upon suspension, cancellation, revocation or modifica-
12 tion, in whole or in part, of any certificate or permit pursuant to
13 paragraph (a) of subdivision one of this section, notify the commission-
14 er of motor vehicles to that effect and the commissioner of motor vehi-
15 cles shall thereupon suspend the registration or registrations of all
16 motor vehicles used in the commission of the offense or, upon suspen-
17 sion, cancellation, revocation or modification, in whole or in part, of
18 any certificate or permit pursuant to paragraph (b) of subdivision one
19 of this section, suspend the registration or registrations of all motor
20 vehicles owned or operated by the holder of the revoked, cancelled,
21 suspended or modified certificate or permit, except private passenger
22 automobiles, until such time as the commissioner gives notice that the
23 violation has been satisfactorily adjusted. The commissioner of motor
24 vehicles may direct any police officer to secure possession of the vehi-
25 cle plates and to return the same to the commissioner of motor vehicles.
26 Failure of the holder or of any person possessing the vehicle plates to
27 deliver to any police officer who requests the same pursuant to this
28 subdivision shall be a class A misdemeanor. The commissioner of motor

1 vehicles shall have the authority to suspend, revoke or deny a registra-
2 tion or renewal application to any other person for the same vehicle and
3 may suspend, revoke or deny a registration or renewal application for
4 any other motor vehicle registered in the name of the applicant where it
5 has been determined that such registrant's intent has been to evade the
6 purposes of this section and where the commissioner of motor vehicles
7 has reasonable grounds to believe that such registration or renewal will
8 have the effect of defeating the purposes of this section. The procedure
9 on any such suspension of vehicle registration shall be the same as in
10 the case of a suspension under the vehicle and traffic law. Operation of
11 any motor vehicle while under suspension as herein provided by any
12 person with knowledge of the suspension shall constitute a class E felo-
13 ny. Upon making an arrest or upon issuing an appearance ticket for any
14 felony violation of this subdivision, or pursuant to the authority of a
15 warrant issued under article six hundred ninety of the criminal proce-
16 dure law, an officer shall remove or arrange for the removal of the
17 vehicle or vehicles used in the commission of the offense to a garage,
18 automobile pound, or other place of safety where it shall remain
19 impounded subject to the provisions of subdivisions two through seven of
20 section five hundred eleven-b of the vehicle and traffic law and the
21 vehicle shall be entered into the New York statewide police information
22 network as an impounded vehicle and the impounding police department
23 shall promptly notify the owner and the local authority that the vehicle
24 has been impounded.

25 3. In addition to, or in lieu of, any sanctions set forth in this
26 section and section one hundred forty of this article, the commissioner
27 may, after [a hearing] notice and opportunity to be heard, impose a
28 penalty not to exceed a maximum of [five thousand] twenty-five thousand

1 dollars [in] for any one [proceeding] violation upon any person if the
2 commissioner finds that such person or officer, agent or employee there-
3 of has failed to comply with the requirements of this chapter or any
4 rule, regulation or order of the commissioner promulgated thereunder. If
5 such penalty is not paid within [four months] thirty days, the amount
6 thereof may be entered as a judgment in the office of the clerk of the
7 county of Albany and in any other county in which the person resides,
8 has a place of business or through which it operates. Thereafter, if
9 said judgment has not been satisfied within ninety days, any certificate
10 or permit held by any such person may be revoked upon notice but without
11 a further hearing[. Provided, however, that if a person shall apply for
12 a rehearing of the determination of the penalty pursuant to the
13 provisions of section eighty-nine of this chapter, judgment shall not be
14 entered until a determination has been made on the application for a
15 rehearing. Further provided however, that if after a rehearing a penal-
16 ty is imposed and such penalty is not paid within four months of the
17 date of service of the rehearing decision, the amount of such penalty
18 may be entered as a judgment in the office of the clerk of the county of
19 Albany and in any other county in which the person resides, has a place
20 of business or through which it operates. Thereafter, if said judgment
21 has not been satisfied within ninety days, any certificate or permit
22 held by any such person may be revoked upon notice but without a further
23 hearing.] and the commissioner may notify the commissioner of motor
24 vehicles to that effect and the commissioner of motor vehicles shall
25 thereupon suspend the registration or registrations of the motor vehicle
26 or vehicles used in the commission of the underlying offense, and the
27 commissioner may direct any police officer to secure possession of the
28 vehicle plates and to return the same to the commissioner of motor vehi-

1 cles. Failure of the holder or of any person possessing the vehicle
2 plates to deliver to any police officer who requests the same pursuant
3 to this subdivision shall be a class A misdemeanor. The commissioner of
4 motor vehicles shall have the authority to suspend, revoke or deny a
5 registration or renewal application to any other person for the same
6 vehicle and may suspend, revoke or deny a registration or renewal appli-
7 cation for any other motor vehicle registered in the name of the appli-
8 cant where it has been determined that such registrant's intent has been
9 to evade the purposes of this subdivision and where the commissioner of
10 motor vehicles has reasonable grounds to believe that such registration
11 or renewal will have the effect of defeating the purposes of this
12 section. The procedure on any such suspension of vehicle registration
13 shall be the same as in the case of a suspension under the vehicle and
14 traffic law. Operation of any motor vehicle while under suspension as
15 herein provided by any person with knowledge of the suspension shall
16 constitute a class E felony. Upon making an arrest or upon issuing an
17 appearance ticket for operation of any motor vehicle while under suspen-
18 sion as herein provided by any person with knowledge of the suspension,
19 or pursuant to the authority of a warrant issued under article six
20 hundred ninety of the criminal procedure law, an officer shall remove or
21 arrange for the removal of the vehicle or vehicles used in the commis-
22 sion of the offense to a garage, automobile pound, or other place of
23 safety where it shall remain impounded subject to the provisions of
24 subdivisions two through seven of section five hundred eleven-b of the
25 vehicle and traffic law and the vehicle shall be entered into the New
26 York statewide police information network as an impounded vehicle and
27 the impounding police department shall promptly notify the owner and the
28 local authority that the vehicle has been impounded.

1 4. (a) If after notice and opportunity to be heard, the commissioner
2 shall find that any person or persons is or are providing transportation
3 subject to regulation under this chapter without having any certificate
4 or permit, or is or are holding themselves out to the public by adver-
5 tising or any other means to provide such transportation without having
6 any certificate or permit or approval from a city having jurisdiction
7 pursuant to section eighty of this chapter, the commissioner may notify
8 the commissioner of motor vehicles to that effect and the commissioner
9 of motor vehicles shall thereupon suspend the registration or registra-
10 tions of all motor vehicles owned or operated by such person or persons
11 except private passenger automobiles until such time as the commissioner
12 [of transportation] may give notice that the violation has been satis-
13 factorily adjusted. The commissioner of motor vehicles may direct any
14 police officer to secure possession of the vehicle plates and to return
15 the same to the commissioner of motor vehicles. Failure of the holder or
16 of any person possessing the vehicle plates to deliver to any police
17 officer who requests the same pursuant to this subdivision shall be a
18 class A misdemeanor. The commissioner of motor vehicles shall have the
19 authority to suspend, revoke or deny a registration or renewal applica-
20 tion to any other person for the same vehicle and may suspend, revoke or
21 deny a registration or renewal application for any other motor vehicle
22 registered in the name of the applicant where it has been determined
23 that such registrant's intent has been to evade the purposes of this
24 subdivision and where the commissioner of motor vehicles has reasonable
25 grounds to believe that such registration or renewal will have the
26 effect of defeating the purposes of this subdivision. The procedure on
27 any such suspension shall be the same as in the case of a suspension
28 under the vehicle and traffic law. Operation of any motor vehicle while

1 under suspension as herein provided by any person with knowledge of the
2 suspension shall constitute a class [A misdemeanor] E felony. Upon
3 making an arrest or upon issuing an appearance ticket for any felony
4 violation of this subdivision, or pursuant to the authority of a warrant
5 issued under article six hundred ninety of the criminal procedure law,
6 an officer shall remove or arrange for the removal of the vehicle or
7 vehicles used in the commission of the offense to a garage, automobile
8 pound, or other place of safety where it shall remain impounded subject
9 to the provisions of subdivisions two through seven of section five
10 hundred eleven-b of the vehicle and traffic law and the vehicle shall be
11 entered into the New York statewide police information network as an
12 impounded vehicle and the impounding police department shall promptly
13 notify the owner and the local authority that the vehicle has been
14 impounded.

15 (b) Whenever the commissioner has reasonable grounds to believe that
16 any person or persons is or are providing transportation subject to
17 regulation under this chapter without having any certificate or permit,
18 or is or are holding themselves out to the public by advertising or any
19 other means to provide such transportation without having any certif-
20 icate or permit or approval from a city having jurisdiction pursuant to
21 section eighty of this chapter, under circumstances that endanger the
22 health, safety, and welfare of the public, the commissioner may secure
23 possession of vehicle plates and immediately notify the commissioner of
24 motor vehicles to that effect or without securing possession of the
25 vehicle plates, immediately notify the commissioner of motor vehicles to
26 that effect and the commissioner of motor vehicles shall thereupon
27 suspend the registration or registrations of all motor vehicles owned or
28 operated by such person or persons as described in paragraph (a) of this

1 subdivision provided, however, that the commissioner provide the person
2 or persons with notice and opportunity to be heard within not more than
3 thirty days. When the registration of any motor vehicle is suspended
4 pursuant to this subdivision, the commissioner of motor vehicles may
5 direct any police officer to secure possession of the vehicle plates and
6 return the same to the commissioner of motor vehicles. Failure of the
7 holder or of any person possessing the vehicle plates to deliver the
8 vehicle plates to the commissioner or any police officer who requests
9 the same shall be a class A misdemeanor.

10 5. Any person, whether carrier, passenger, shipper, consignee, or
11 broker, or any officer, employee, agent or representative thereof, who
12 shall knowingly offer, grant or give or solicit, accept, or receive any
13 rebate, concession or discrimination in violation of this chapter, or
14 who by means of any false statement or representation, or by the use of
15 any false or fictitious bill, bill of lading, receipt, voucher, roll,
16 account, claim, certificate, affidavit, deposition, lease or bill of
17 sale, or by any other means or device, shall knowingly and willfully
18 assist, suffer or permit any person or persons to obtain transportation
19 of property or passengers subject to this chapter for less than the
20 applicable rate, toll or charge, or who, with respect to the transporta-
21 tion of household goods, shall knowingly or willfully misrepresent the
22 applicable rate for transportation or the weight of a shipment or the
23 cost of transportation to the shipper, or who shall knowingly and will-
24 fully by any such means or otherwise fraudulently seek to evade or
25 defeat regulation as provided for in this chapter, shall be guilty of a
26 misdemeanor and upon conviction thereof be fined not more than [five
27 hundred] twenty-five thousand dollars [for the first offense and not
28 more than two thousand dollars for any subsequent] per offense.

1 6. Any person who shall provide transportation for compensation within
2 the state, or hold himself or herself out to the public by advertising
3 or any other means to provide such transportation, when such transporta-
4 tion requires either the permission or approval of the commissioner, or
5 the permission, approval or franchise of any city having regulatory
6 jurisdiction over such transportation and who does not possess a valid
7 permit, certificate or approval for such transportation, from the
8 commissioner or from such city, or attempts to do so, shall be guilty of
9 a [traffic infraction punishable by a fine of not less than five hundred
10 and not more than one thousand dollars for the first offense] misdemea-
11 nor punishable by a fine of not less than twenty-five thousand dollars,
12 or by imprisonment for not more than one year, or by both such fine and
13 imprisonment. A violation of this subdivision by a person who has previ-
14 ously been convicted of such offense within five years of the violation
15 shall be a [misdemeanor and shall be punishable by a fine of not less
16 than one thousand and not more than twenty-five hundred dollars, or by
17 imprisonment for not more than sixty days, or by both such fine and
18 imprisonment] class E felony. [Upon conviction as a second or subse-
19 quent offender as described herein the court may order forfeiture of any
20 right, title or interest held by the defendant in any motor vehicle used
21 in the commission of such offense pursuant to the provisions of subdivi-
22 sion seven of this section.] Upon making an arrest or upon issuing an
23 appearance ticket for any felony violation of this subdivision, or
24 pursuant to the authority of a warrant issued under article six hundred
25 ninety of the criminal procedure law, an officer shall remove or arrange
26 for the removal of the vehicle or vehicles used in the commission of the
27 offense to a garage, automobile pound, or other place of safety where it
28 shall remain impounded subject to the provisions of subdivisions two

1 through seven of section five hundred eleven-b of the vehicle and traf-
2 fic law and the vehicle shall be entered into the New York statewide
3 police information network as an impounded vehicle and the impounding
4 police department shall promptly notify the owner and the local authori-
5 ty that the vehicle has been impounded. In addition to, or in lieu of,
6 any sanction set forth in this subdivision, the commissioner may, after
7 a hearing, impose a penalty equal to the gain or profit derived from
8 transportation services conducted in violation of this subdivision. Any
9 person holding regulatory authority or a franchise from either the
10 commissioner or any city having regulatory jurisdiction over such trans-
11 portation, or any public transportation authority created pursuant to
12 title nine, eleven, eleven-A, eleven-B, eleven-C or eleven-D of article
13 five of the public authorities law, who is being adversely affected by a
14 person providing transportation without having the necessary regulatory
15 authority or franchise from the commissioner or any such city, may bring
16 suit in his, her or its own behalf to restrain such person and recover
17 damages resulting from the actions of such person.

18 7. (a) Whenever it appears that any person is violating the provisions
19 of subdivision six of this section, the commissioner acting by the
20 attorney general, or the city acting by its corporation counsel, or
21 designee, may bring suit against such person in any court of competent
22 jurisdiction to restrain such person from continuing such violation. In
23 any such suit, the court shall have jurisdiction to grant to the commis-
24 sioner or city without bond or other undertaking, such prohibitory or
25 mandatory injunctions as the facts may warrant, including temporary
26 restraining orders and preliminary or permanent injunctions, and to levy
27 upon the gain or profit that may be subject to a penalty pursuant to
28 subdivision six of this section. [In cities with a population of one

1 million or more, the police department shall have the power to issue
2 summonses for violations of subdivision six of this section and those
3 summonses shall be adjudicated according to the rules and regulations
4 set forth in article two-A of the vehicle and traffic law. The hearing
5 officer responsible for adjudication of any violation of such subdivi-
6 sion six shall review the record of any person found guilty of violating
7 such subdivision six to determine whether or not that person has a prior
8 conviction under such subdivision six. After a review of the record, if
9 it is found that there has been a prior conviction, the hearing officer
10 shall refer the matter to the appropriate local criminal court for pros-
11 ecution under this article.]

12 (b) [Any person convicted] Upon conviction as a [third] second or
13 subsequent criminal offender [as described in] under subdivision two,
14 three, four, or six [shall be subject to a court order divesting him] of
15 this section the court may order forfeiture of any right, title or
16 interest held by the defendant in any motor vehicle used in the commis-
17 sion of the offense. [An] In the alternative, upon conviction as a
18 second or subsequent criminal offender under subdivision two, three,
19 four, or six of this section, an action for forfeiture may be commenced
20 by the attorney general on behalf of the commissioner or the corporation
21 counsel or designee on behalf of the city in any superior court in the
22 county of conviction. The defendant shall have a right to a trial by
23 jury on any issue of fact. The plaintiff in the forfeiture action shall
24 have the burden of proof by clear and convincing evidence on such issues
25 of fact.

26 (c) Any order of forfeiture issued pursuant to this subdivision shall
27 include provisions for the disposal of the property found to have been
28 forfeited. Such provisions shall be directed to the attorney general or

1 corporation counsel or designee as the case may be, and may include, but
2 are not limited to, an order directing that the property be sold in
3 accordance with provisions of article fifty-one of the civil practice
4 law and rules. Net proceeds of the sale shall be paid into the general
5 fund of the state or city, as the case may be, less all costs and
6 attendant expenses of seizure, storage and forfeiture, as the case may
7 be, which shall be paid to the office of the attorney general or corpo-
8 ration counsel in the appropriate case notwithstanding any other
9 provisions of law.

10 8. All penalties charged and collected by the commissioner pursuant to
11 this section shall be deposited by the comptroller into the special
12 obligation reserve and payment account of the dedicated highway and
13 bridge trust fund established pursuant to section [eight-nine-b]
14 eighty-nine-b of the state finance law.

15 § 3. Subparagraph (iii) of paragraph b of subdivision 2 of section 510
16 of the vehicle and traffic law, as amended by section 1 of part A of
17 chapter 58 of the laws of 2018, is amended to read as follows:

18 (iii) such registrations shall be suspended when necessary to comply
19 with subdivision nine of section one hundred forty or subdivision two,
20 three, or four of section one hundred forty-five of the transportation
21 law or with an out of service order issued by the United States depart-
22 ment of transportation. The commissioner shall have the authority to
23 suspend, revoke or deny a registration or renewal application to any
24 other person for the same vehicle and may suspend, revoke or deny a
25 registration or renewal application for any other motor vehicle regis-
26 tered in the name of the applicant where it has been determined that
27 such registrant's intent has been to evade the purposes of this subdivi-
28 sion and where the commissioner has reasonable grounds to believe that

1 such registration or renewal will have the effect of defeating the
2 purposes of this subdivision. Any suspension issued pursuant to this
3 subdivision by reason of an out of service order issued by the United
4 States department of transportation shall remain in effect until such
5 time as the commissioner is notified by the United States department of
6 transportation or the commissioner of transportation that the order
7 resulting in the suspension is no longer in effect.

8 § 4. The penal law is amended by adding a new section 170.72 to read
9 as follows:

10 § 170.72 Tampering with a federal motor vehicle safety standard certif-
11 ication label.

12 A person is guilty of tampering with a federal motor vehicle safety
13 standard certification label when:

14 (1) He or she, with intent to defraud, knowingly removes, defaces,
15 destroys, covers, alters, or otherwise changes the form or appearance of
16 a federal motor vehicle safety standard certification label issued in
17 accordance with 49 U.S.C.S. § 30115 and regulations promulgated there-
18 under; or

19 (2) He or she, with intent to defraud, affixes a federal motor vehicle
20 safety standard certification label to a vehicle, except in accordance
21 with 49 U.S.C.S. § 30115 and regulations promulgated thereunder.

22 (3) Upon making an arrest for any violation of this section, an offi-
23 cer shall remove or arrange for the removal of the vehicle or vehicles
24 used in the commission of the offense to a garage, automobile pound, or
25 other place of safety where it shall remain impounded subject to the
26 provisions of subdivisions two through seven of section five hundred
27 eleven-b of the vehicle and traffic law and the vehicle shall be entered
28 into the New York statewide police information network as an impounded

1 vehicle and the impounding police department shall promptly notify the
2 owner and the local authority that the vehicle has been impounded. Upon
3 conviction as a second or subsequent offender as described herein the
4 court may order forfeiture of any right, title or interest held by the
5 defendant in any motor vehicle used in the commission of such offense.

6 An action for forfeiture may be commenced by the attorney general on
7 behalf of the commissioner of motor vehicles or the corporation counsel
8 or designee on behalf of the city in any superior court in the county of
9 conviction. The defendant shall have a right to a trial by jury on any
10 issue of fact. The plaintiff in the forfeiture action shall have the
11 burden of proof by clear and convincing evidence on such issues of fact.

12 Tampering with a federal motor vehicle safety standard certification
13 label is a class D felony.

14 § 5. The transportation law is amended by adding a new section 144 to
15 read as follows:

16 § 144. Fees and charges. The commissioner or authorized officer or
17 employee of the department shall charge and collect one hundred twenty
18 dollars for the inspection or reinspection of all for-hire motor vehi-
19 cles transporting passengers subject to the department's inspection
20 requirements pursuant to section one hundred forty of this article,
21 except such motor vehicles operated under contract with a municipality
22 to provide statewide mass transportation operating assistance eligible
23 service; vehicles operated under contract with a municipality or school
24 district to provide school-related transportation services; or motor
25 vehicles authorized by the commissioner of health to provide non-emer-
26 gency medical transportation services. The department may deny
27 inspection of any motor vehicle transporting passengers subject to the

1 department's inspection requirements if such fee is not paid within
2 ninety days of the date noted on the department invoice.

3 § 6. The vehicle and traffic law is amended by adding a new section
4 121-dd to read as follows:

5 § 121-dd. Large livery. A livery vehicle or taxi designed or used to
6 transport at least eight but fewer than fifteen passengers, in addition
7 to the driver, irrespective of the motor vehicle registration class in
8 which such vehicle is registered.

9 § 7. Paragraph b of subdivision 1 of section 401 of the vehicle and
10 traffic law, as amended by chapter 222 of the laws of 1996, is amended
11 to read as follows:

12 b. Every owner of a motor vehicle which shall be operated or driven
13 upon the public highways of this state shall, except as otherwise
14 expressly provided, cause to be presented, by mail or otherwise, to the
15 office or a branch office of the commissioner, or to any agent of the
16 commissioner, constituted as provided in this chapter, an application
17 for registration addressed to the commissioner, and on a blank to be
18 prepared under the direction of and furnished by the commissioner for
19 that purpose, containing: (a) a brief description of the motor vehicle
20 to be registered, including the name and factory number of such vehicle,
21 and such other facts as the commissioner shall require; (b) the weight
22 of the vehicle upon which the registration fee is based if the fee is
23 based on weight; (c) the name and residence, including county of the
24 owner of such motor vehicle; (d) provided that, if such motor vehicle is
25 used or to be used as an omnibus, the applicant also shall so certify,
26 and in the case of an omnibus also certify as to the seating capacity,
27 and if the omnibus is to be operated wholly within a municipality pursu-
28 ant to a franchise other than a franchise express or implied in articles

1 of incorporation upon certain streets designated in such franchise,
2 those facts shall also be certified, and a certified copy of such fran-
3 chise furnished to the commissioner; and (e) [provided, that, if such
4 motor vehicle is an altered livery, the applicant shall so furnish a
5 certified copy of the length of the center panel of such vehicle,
6 provided, however, that the commissioner shall require such proof, as he
7 may determine is necessary, in the application for registration and
8 provided further, if the center panel of such vehicle exceeds one
9 hundred inches, the commissioner shall require proof that such vehicle
10 is in compliance with all applicable federal and state motor vehicle
11 safety standards; and (f)] such additional facts or evidence as the
12 commissioner may require in connection with the application for regis-
13 tration. Every owner of a trailer shall also make application for the
14 registration thereof in the manner herein provided for an application to
15 register a motor vehicle, but shall contain a statement showing the
16 manufacturer's number or other identification satisfactory to the
17 commissioner and no number plate for a trailer issued under the
18 provisions of subdivision three of section four hundred two of this
19 [chapter] article shall be transferred to or used upon any other trailer
20 than the one for which number plate is issued. The commissioner shall
21 require proof, in the application for registration, or otherwise, as
22 such commissioner may determine, that the motor vehicle for which regis-
23 tration is applied for is equipped with lights conforming in all
24 respects to the requirements of this chapter, and no motor vehicle shall
25 be registered unless it shall appear by such proofs that such motor
26 vehicle is equipped with proper lights as aforesaid. The said applica-
27 tion shall contain or be accompanied by such evidence of the ownership
28 of the motor vehicle described in the application as may be required by

1 the commissioner or his agent and which, with respect to new vehicles,
2 shall include, unless otherwise specifically provided by the commission-
3 er, the manufacturer's statement of origin. Applications received by an
4 agent of the commissioner shall be forwarded to the commissioner as he
5 shall direct for filing. No application for registration shall be
6 accepted unless the applicant is at least sixteen years of age.

7 § 8. Section 401 of the vehicle and traffic law is amended by adding
8 two new subdivisions 22 and 23 to read as follows:

9 22. The commissioner shall not register any motor vehicle that has
10 been altered, a vehicle commonly referred to as a "stretch limousine",
11 so as to add seating capacity beyond that provided by the original
12 manufacturer by way of an extended chassis, lengthened wheel base, or an
13 elongated seating area, and in the case of a truck, has been modified to
14 transport passengers. Owners of such vehicles that are registered shall
15 surrender the registration to the commissioner, and the commissioner
16 shall revoke any such registration upon discovery thereof, so that in no
17 way shall such a motor vehicle be registered for operation.

18 23. The commissioner shall refund to or credit the account of any
19 person who paid a registration fee for an altered vehicle, the pro rata
20 unused portion of such registration fee.

21 § 9. The vehicle and traffic law is amended by adding a new section
22 308-a to read as follows:

23 § 308-a. Mandatory reporting. If any motor vehicle is presented for
24 inspection at a licensed official inspection station, and such vehicle
25 has been altered, a vehicle commonly referred to as a "stretch limou-
26 sine", so as to add seating capacity beyond that provided by the
27 original manufacturer by way of an extended chassis, lengthened wheel
28 base, or an elongated seating area, and in the case of a truck, has been

1 modified to transport passengers, such licensed official inspection
2 station shall refuse inspection for such vehicle and promptly report
3 such vehicle to the commissioner in the form and manner prescribed by
4 the commissioner.

5 § 10. Section 306 of the vehicle and traffic law is amended by adding
6 a new subdivision (g) to read as follows:

7 (g) Any person who shall issue a certificate of inspection provided
8 for in this article for a motor vehicle that is required to obtain
9 approval to operate in the state as a common or contract carrier of
10 passengers by motor vehicle from the commissioner of transportation
11 shall be guilty of a misdemeanor.

12 § 11. Subparagraph (iv) of paragraph (b) of subdivision 2 of section
13 501 of the vehicle and traffic law, as amended by section 4 of part E of
14 chapter 58 of the laws of 2016, is amended to read as follows:

15 (iv) P endorsement. Shall be required to operate a bus as defined in
16 sections one hundred four and five hundred nine-a of this chapter, or a
17 large livery as defined in section one hundred twenty-one-dd of this
18 chapter, or any motor vehicle with a gross vehicle weight or gross vehi-
19 cle weight rating of more than twenty-six thousand pounds which is
20 designed to transport passengers in commerce. For the purposes of this
21 subparagraph the gross vehicle weight of a vehicle shall mean the actual
22 weight of the vehicle and the load.

23 § 12. Subparagraph (iv) of paragraph (a) of subdivision 4 of section
24 501-a of the vehicle traffic law, as added by chapter 173 of the laws of
25 1990, is amended to read as follows:

26 (iv) defined as a bus in subdivision one of section five hundred
27 nine-a of this chapter, or as a large livery in section one hundred
28 twenty-one-dd of this chapter; or

1 § 13. The vehicle and traffic law is amended by adding a new section
2 1161-a to read as follows:

3 § 1161-a. U-turns by certain motor vehicles prohibited. (1) Notwith-
4 standing any other provision of law, no U-turn shall be performed by a
5 vehicle having an overall length of eighteen feet or more, a bus as
6 defined in section one hundred four of this chapter, or a large livery
7 as defined in section one hundred twenty-one-dd of this chapter.

8 (2) The provisions of this section shall apply upon public highways
9 and privately owned roads open to motor vehicle traffic. In addition,
10 the provisions of this section shall apply irrespective of: (a) whether
11 the bus or large livery is carrying any passengers; and (b) the motor
12 vehicle registration class in which the bus or large livery is regis-
13 tered.

14 (3) Any violation of the provisions of this section which results in
15 serious physical injury as defined in section 10.00 of the penal law,
16 shall be a class A misdemeanor, punishable by a fine of not less than
17 five hundred dollars nor more than one thousand dollars in addition to
18 any other penalties provided by law. Any violation of this section which
19 results in death shall be a class E felony punishable by a fine of not
20 less than one thousand dollars nor more than five thousand dollars in
21 addition to any other penalties provided by law.

22 § 14. Paragraph (a) of subdivision 4 and subdivision 9 of section
23 1229-c of the vehicle and traffic law, paragraph (a) of subdivision 4 as
24 amended by chapter 448 of the laws of 2015 and subdivision 9 as amended
25 by chapter 340 of the laws of 2017, are amended to read as follows:

26 (a) "motor vehicle" shall include all motor vehicles which are
27 required by section three hundred eighty-three of this chapter or regu-
28 lation or would be required if such motor vehicle were registered in New

1 York state to be equipped by a safety belt but shall not include those
2 vehicles which are [used as school buses, as such term is defined in
3 section one hundred forty-two of this chapter and those vehicles which
4 are] authorized emergency vehicles, as such term is defined in section
5 one hundred one of this chapter, provided, however, that for purposes of
6 this section, "motor vehicle" shall also include fire vehicles owned
7 and/or operated by a fire company as defined by subdivision two of
8 section one hundred of the general municipal law and ambulances owned
9 and/or operated by a voluntary ambulance service as defined by subdivi-
10 sion three of section one hundred of the general municipal law;

11 [9. Notwithstanding the provisions of subdivision four of this
12 section, the provisions of this section shall not apply to buses other
13 than school buses and the provisions of subdivisions one, two, three and
14 three-a of this section shall not apply to taxis and liveries.]

15 § 15. Subdivision 7 of section 510 of the vehicle and traffic law, as
16 amended by section 5 of part K of chapter 59 of the laws of 2010, is
17 amended to read as follows:

18 7. Miscellaneous provisions. Except as expressly provided, a court
19 conviction shall not be necessary to sustain a revocation or suspension.
20 Revocation or suspension hereunder shall be deemed an administrative act
21 reviewable by the supreme court as such. Notice of revocation or suspen-
22 sion, as well as any required notice of hearing, where the holder is not
23 present, may be given by mailing the same in writing to him or her at
24 the address contained in his or her license, certificate of registration
25 or at the current address provided by the United States postal service,
26 as the case may be. Proof of such mailing by certified mail to the hold-
27 er shall be presumptive evidence of the holder's receipt and actual
28 knowledge of such notice. Attendance of witnesses may be compelled by

1 subpoena. Failure of the holder or any other person possessing the
2 license card or number plates, to deliver the same to the suspending or
3 revoking officer is a misdemeanor. Suspending or revoking officers shall
4 place such license cards and number plates in the custody of the commis-
5 sioner except where the commissioner shall otherwise direct. [If any
6 person shall fail to deliver a license card or number plates as provided
7 herein, any] Any police officer, bridge and tunnel officer of the
8 Triborough bridge and tunnel authority, the commissioner, the commis-
9 sioner of transportation or agent of [the commissioner] such commission-
10 ers having knowledge of such facts shall have the power to secure
11 possession thereof and return the same to the commissioner[, and the
12 commissioner may forthwith direct any police officer, bridge and tunnel
13 officer of the Triborough bridge and tunnel authority, acting pursuant
14 to his or her special duties, or agent of the commissioner to secure
15 possession thereof and to return the same to the commissioner]. Failure
16 of the holder or of any person possessing the license card or number
17 plates to deliver to any police officer, bridge and tunnel officer of
18 the Triborough bridge and tunnel authority, or agent of the commissioner
19 of transportation, or agent of the commissioner who requests the same
20 pursuant to this subdivision shall be a misdemeanor. [Notice of revoca-
21 tion or suspension of any license or registration shall be transmitted
22 forthwith by the commissioner to the chief of police of the city or
23 prosecuting officer of the locality in which the person whose license or
24 registration so revoked or suspended resides.] In case any license or
25 registration shall expire before the end of any period for which it has
26 been revoked or suspended, and before it shall have been restored as
27 provided in this chapter, then and in that event any renewal thereof may

1 be withheld until the end of such period of suspension or until restora-
2 tion, as the case may be.

3 The revocation of a learner's permit shall automatically cancel the
4 application for a license of the holder of such permit.

5 No suspension or revocation of a license or registration shall be made
6 because of a judgment of conviction if the suspending or revoking offi-
7 cer is satisfied that the magistrate who pronounced the judgment failed
8 to comply with subdivision one of section eighteen hundred seven of this
9 chapter. In case a suspension or revocation has been made and the
10 commissioner is satisfied that there was such failure, the commissioner
11 shall restore the license or registration or both as the case may be.

12 § 16. This act shall take effect immediately; provided, however,
13 section five of this act shall take effect October 1, 2019; and provided
14 further, however, that sections eleven and twelve of this act shall take
15 effect on the ninetieth day after they shall have become a law.

16 PART U

17 Section 1. Expenditures of moneys appropriated in a chapter of the
18 laws of 2019 to the department of agriculture and markets from the
19 special revenue funds-other/state operations, miscellaneous special
20 revenue fund-339, public service account shall be subject to the
21 provisions of this section. Notwithstanding any other provision of law
22 to the contrary, direct and indirect expenses relating to the department
23 of agriculture and markets' participation in general ratemaking
24 proceedings pursuant to section 65 of the public service law or certif-
25 ication proceedings pursuant to article 7 or 10 of the public service
26 law, shall be deemed expenses of the department of public service within

1 the meaning of section 18-a of the public service law. No later than
2 August 15, 2020, the commissioner of the department of agriculture and
3 markets shall submit an accounting of such expenses, including, but not
4 limited to, expenses in the 2019--2020 state fiscal year for personal
5 and non-personal services and fringe benefits, to the chair of the
6 public service commission for the chair's review pursuant to the
7 provisions of section 18-a of the public service law. No later than
8 August 15, 2021, the commissioner of the department of agriculture and
9 markets shall submit an accounting of such expenses, including, but not
10 limited to, expenses in the 2020--2021 state fiscal year for personal
11 and non-personal services and fringe benefits, to the chair of the
12 public service commission for the chair's review pursuant to the
13 provisions of section 18-a of the public service law.

14 § 2. Expenditures of moneys appropriated in a chapter of the laws of
15 2019 to the department of state from the special revenue funds-
16 other/state operations, miscellaneous special revenue fund-339, public
17 service account shall be subject to the provisions of this section.
18 Notwithstanding any other provision of law to the contrary, direct and
19 indirect expenses relating to the activities of the department of
20 state's utility intervention unit pursuant to subdivision 4 of section
21 94-a of the executive law, including, but not limited to participation
22 in general ratemaking proceedings pursuant to section 65 of the public
23 service law or certification proceedings pursuant to article 7 or 10 of
24 the public service law, shall be deemed expenses of the department of
25 public service within the meaning of section 18-a of the public service
26 law. No later than August 15, 2020, the secretary of state shall submit
27 an accounting of such expenses, including, but not limited to, expenses
28 in the 2019--2020 state fiscal year for personal and non-personal

1 services and fringe benefits, to the chair of the public service commis-
2 sion for the chair's review pursuant to the provisions of section 18-a
3 of the public service law. No later than August 15, 2021, the secretary
4 of state shall submit an accounting of such expenses, including, but not
5 limited to, expenses in the 2020--2021 state fiscal year for personal
6 and non-personal services and fringe benefits, to the chair of the
7 public service commission for the chair's review pursuant to the
8 provisions of section 18-a of the public service law.

9 § 3. Expenditures of moneys appropriated in a chapter of the laws of
10 2019 to the office of parks, recreation and historic preservation from
11 the special revenue funds-other/state operations, miscellaneous special
12 revenue fund-339, public service account shall be subject to the
13 provisions of this section. Notwithstanding any other provision of law
14 to the contrary, direct and indirect expenses relating to the office of
15 parks, recreation and historic preservation's participation in general
16 ratemaking proceedings pursuant to section 65 of the public service law
17 or certification proceedings pursuant to article 7 or 10 of the public
18 service law, shall be deemed expenses of the department of public
19 service within the meaning of section 18-a of the public service law. No
20 later than August 15, 2020, the commissioner of the office of parks,
21 recreation and historic preservation shall submit an accounting of such
22 expenses, including, but not limited to, expenses in the 2019--2020
23 state fiscal year for personal and non-personal services and fringe
24 benefits, to the chair of the public service commission for the chair's
25 review pursuant to the provisions of section 18-a of the public service
26 law. No later than August 15, 2021, the commissioner of the office of
27 parks, recreation and historic preservation shall submit an accounting
28 of such expenses, including, but not limited to, expenses in the

1 2020--2021 state fiscal year for personal and non-personal services and
2 fringe benefits, to the chair of the public service commission for the
3 chair's review pursuant to the provisions of section 18-a of the public
4 service law.

5 § 4. Expenditures of moneys appropriated in a chapter of the laws of
6 2019 to the department of environmental conservation from the special
7 revenue funds-other/state operations, environmental conservation special
8 revenue fund-301, utility environmental regulation account shall be
9 subject to the provisions of this section. Notwithstanding any other
10 provision of law to the contrary, direct and indirect expenses relating
11 to the department of environmental conservation's participation in state
12 energy policy proceedings, or certification proceedings pursuant to
13 article 7 or 10 of the public service law, shall be deemed expenses of
14 the department of public service within the meaning of section 18-a of
15 the public service law. No later than August 15, 2020, the commissioner
16 of the department of environmental conservation shall submit an account-
17 ing of such expenses, including, but not limited to, expenses in the
18 2019--2020 state fiscal year for personal and non-personal services and
19 fringe benefits, to the chair of the public service commission for the
20 chair's review pursuant to the provisions of section 18-a of the public
21 service law. No later than August 15, 2021, the commissioner of the
22 department of environmental conservation shall submit an accounting of
23 such expenses, including, but not limited to, expenses in the 2020--2021
24 state fiscal year for personal and non-personal services and fringe
25 benefits, to the chair of the public service commission for the chair's
26 review pursuant to the provisions of section 18-a of the public service
27 law.

1 § 5. Funding for services and expenses of the electric generation
2 facility cessation mitigation fund for state fiscal year 2019--2020, and
3 for each state fiscal year thereafter, shall be subject to the
4 provisions of this section. Notwithstanding any other provision of law
5 to the contrary, funding provided to the electric generation facility
6 cessation mitigation fund administered by the urban development corpo-
7 ration for payment to eligible municipalities shall be deemed expenses
8 of the department of public service within the meaning of section 18-a
9 of the public service law. For the 2019--2020 state fiscal year, and for
10 each state fiscal year thereafter, the electric businesses of public
11 utilities subject to the commission's regulation, other than munici-
12 palities, shall pay a total amount not to exceed \$10,000,000 to the
13 urban development corporation for deposit to the electric generation
14 facility cessation mitigation fund. The bill to each such public utility
15 shall be \$10,000,000 multiplied by the proportion which compares: (1)
16 the gross operating revenues, over and above five hundred thousand
17 dollars, for the electric business of such public utility derived from
18 intrastate utility operations in the last preceding calendar year, or
19 other twelve month period as determined by the chairman, to: (2) the
20 total of the gross operating revenues, derived from intrastate utility
21 operations for the electric businesses of all such public utilities in
22 the state. No later than August 15, 2020, and August 15 of each year
23 thereafter, the chair of the public service commission will review an
24 accounting of the electric generation facility cessation mitigation fund
25 pursuant to provisions of section 18-a of the public service law.

26 § 6. Notwithstanding any other law, rule or regulation to the contra-
27 ry, expenses of the department of health public service education
28 program incurred pursuant to appropriations from the cable television

1 account of the state miscellaneous special revenue funds shall be deemed
2 expenses of the department of public service. No later than August 15,
3 2020, the commissioner of the department of health shall submit an
4 accounting of expenses in the 2019--2020 state fiscal year to the chair
5 of the public service commission for the chair's review pursuant to the
6 provisions of section 217 of the public service law. No later than
7 August 15, 2021, the commissioner of the department of health shall
8 submit an accounting of such expenses, including, but not limited to,
9 expenses in the 2020--2021 state fiscal year for personal and non-per-
10 sonal services and fringe benefits, to the chair of the public service
11 commission for the chair's review pursuant to the provisions of section
12 18-a of the public service law.

13 § 7. Any expense deemed to be expenses of the department of public
14 service pursuant to sections one through five of this act shall not be
15 recovered through assessments imposed upon telephone corporations as
16 defined in subdivision 17 of section 2 of the public service law.

17 § 8. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after April 1, 2019 and
19 sections one, two, three, four and six shall be deemed repealed April 1,
20 2021.

21 PART V

22 Section 1. The state finance law is amended by adding a new section
23 169 to read as follows:

24 § 169. Net neutrality. 1. As used herein, "net neutrality" shall mean
25 that an internet service provider will not block, throttle, or prior-
26 itize internet content or applications or require that end users pay

1 different or higher rates to access specific types of content or appli-
2 cations.

3 2. Each state agency shall enter into contracts with only those inter-
4 net service providers that adhere to net neutrality principles. Each
5 contract for internet services provided to a state agency shall specif-
6 ically state that the internet service provider may not block lawful
7 content, applications, services, non-harmful devices, or applications
8 that compete with other services provided by the internet service
9 provider. Any contract or contract renewal entered into by a state
10 agency shall include a binding agreement consistent with the foregoing
11 provisions, and no state agency shall enter into a contract with an
12 internet service provider, an agent therefor, or other entity offering
13 to or procuring on behalf of the state agency internet services unless
14 the contract contains such a binding agreement.

15 § 2. Subdivision 9 of section 160 of the state finance law, as amended
16 by chapter 106 of the laws of 2012, is amended to read as follows:

17 9. "State agency" or "state agencies" means all state departments,
18 boards, commissions, offices or institutions but excludes, however, for
19 the purposes of subdivision five of section three hundred fifty-five of
20 the education law, the state university of New York and excludes, for
21 the purposes of subdivision a of section sixty-two hundred eighteen of
22 the education law, the city university of New York; provided, however,
23 that the state university of New York and the city university of New
24 York shall be subject to the provisions of section one hundred sixty-
25 five-a and section one hundred sixty-nine of this article. Furthermore,
26 such term shall not include the legislature or the judiciary.

27 § 3. The public authorities law is amended by adding a new section
28 2878-c to read as follows:

1 § 2878-c. Net neutrality. 1. As used herein, "net neutrality" shall
2 mean that an internet service provider will not block, throttle, or
3 prioritize internet content or applications or require that end users
4 pay different or higher rates to access specific types of content or
5 applications.

6 2. Each state authority shall enter into contracts with only those
7 internet service providers that adhere to net neutrality principles.
8 Each contract for internet services provided to a state authority shall
9 specifically state that the internet service provider may not block
10 lawful content, applications, services, non-harmful devices, or applica-
11 tions that compete with other services provided by the internet service
12 provider. Any contract or contract renewal entered into by a state
13 authority shall include a binding agreement consistent with the forego-
14 ing provisions, and no state authority shall enter into a contract with
15 an internet service provider, an agent therefor, or other entity offer-
16 ing to or procuring on behalf of the state authority internet services
17 unless the contract contains such a binding agreement.

18 § 4. This act shall take effect immediately.

19 PART W

20 Section 1. Expenditures of moneys by the New York state energy
21 research and development authority for services and expenses of the
22 energy research, development and demonstration program, including
23 grants, the energy policy and planning program, the zero emissions vehi-
24 cle and electric vehicle rebate program, and the Fuel NY program shall
25 be subject to the provisions of this section. Notwithstanding the
26 provisions of subdivision 4-a of section 18-a of the public service law,

1 all moneys committed or expended in an amount not to exceed \$19,700,000
2 shall be reimbursed by assessment against gas corporations, as defined
3 in subdivision 11 of section 2 of the public service law and electric
4 corporations as defined in subdivision 13 of section 2 of the public
5 service law, where such gas corporations and electric corporations have
6 gross revenues from intrastate utility operations in excess of \$500,000
7 in the preceding calendar year, and the total amount which may be
8 charged to any gas corporation and any electric corporation shall not
9 exceed one cent per one thousand cubic feet of gas sold and .010 cent
10 per kilowatt-hour of electricity sold by such corporations in their
11 intrastate utility operations in calendar year 2017. Such amounts shall
12 be excluded from the general assessment provisions of subdivision 2 of
13 section 18-a of the public service law. The chair of the public service
14 commission shall bill such gas and/or electric corporations for such
15 amounts on or before August 10, 2019 and such amounts shall be paid to
16 the New York state energy research and development authority on or
17 before September 10, 2019. Upon receipt, the New York state energy
18 research and development authority shall deposit such funds in the ener-
19 gy research and development operating fund established pursuant to
20 section 1859 of the public authorities law. The New York state energy
21 research and development authority is authorized and directed to: (1)
22 transfer \$1 million to the state general fund for services and expenses
23 of the department of environmental conservation, \$150,000 to the state
24 general fund for services and expenses of the department of agriculture
25 and markets, and \$825,000 to the University of Rochester laboratory for
26 laser energetics from the funds received; and (2) commencing in 2016,
27 provide to the chair of the public service commission and the director
28 of the budget and the chairs and secretaries of the legislative fiscal

1 committees, on or before August first of each year, an itemized record,
2 certified by the president and chief executive officer of the authority,
3 or his or her designee, detailing any and all expenditures and commit-
4 ments ascribable to moneys received as a result of this assessment by
5 the chair of the department of public service pursuant to section 18-a
6 of the public service law. This itemized record shall include an item-
7 ized breakdown of the programs being funded by this section and the
8 amount committed to each program. The authority shall not commit for
9 any expenditure, any moneys derived from the assessment provided for in
10 this section, until the chair of such authority shall have submitted,
11 and the director of the budget shall have approved, a comprehensive
12 financial plan encompassing all moneys available to and all anticipated
13 commitments and expenditures by such authority from any source for the
14 operations of such authority. Copies of the approved comprehensive
15 financial plan shall be immediately submitted by the chair to the chairs
16 and secretaries of the legislative fiscal committees. Any such amount
17 not committed by such authority to contracts or contracts to be awarded
18 or otherwise expended by the authority during the fiscal year shall be
19 refunded by such authority on a pro-rata basis to such gas and/or elec-
20 tric corporations, in a manner to be determined by the department of
21 public service, and any refund amounts must be explicitly lined out in
22 the itemized record described above.

23 § 2. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2019.

1 Section 1. Short title. This act shall be known and may be cited as
2 the "climate leadership act".

3 § 2. Legislative findings. The legislature finds and declares that:

4 1. New York state is on the front lines of the battle against climate
5 change, recognizing the moral imperative for this generation to protect
6 the next.

7 2. New York state has already experienced firsthand the damaging
8 consequences of a changing climate along with the economic impacts of
9 increasingly frequent and violent weather.

10 3. New York state accepts its responsibility to lead the fight to
11 address climate change, and as the world's thirteenth largest economy,
12 embraces this responsibility and the need for greater climate action and
13 leadership.

14 4. New York state accepts the findings of the United Nations Intergov-
15 ernmental Panel on Climate Change and the international scientific
16 community that global temperature must not increase by more than 2
17 degrees Celsius above preindustrial levels in order to avert the most
18 damaging effects of a changing climate.

19 5. New York state is mindful of the federal government's fourth
20 National Climate Assessment, which predicts that if significant steps
21 are not taken, the damage from climate change will reduce the size of
22 the U.S. economy by century's end as a result of severe weather and
23 natural disasters.

24 6. New York state is a national and international leader in addressing
25 climate change and has adopted ambitious policies and initiatives to
26 dramatically reduce greenhouse gas emissions, including a target to
27 reduce greenhouse gas emissions by 40% from 1990 levels by 2030, and 80%
28 from 1990 levels by 2050.

1 7. New York state is a founding participant in the U.S. Climate Alli-
2 ance, Regional Greenhouse Gas Initiative, and Zero Emissions Vehicles
3 Initiative.

4 8. New York state's Reforming the Energy Vision is a nationally recog-
5 nized initiative to fundamentally transform the state's energy economy
6 into one that is increasingly clean, resilient and affordable.

7 9. New York state's Clean Energy Standard was one of the first
8 programs in the nation to mandate that 50% of electricity come from
9 renewable energy sources by 2030.

10 10. New York state's offshore wind, solar, energy storage, and energy
11 efficiency targets and programs are leading the nation in propelling the
12 rapid growth of clean energy industries across the state.

13 11. New York state is committed to achieving carbon neutrality as soon
14 as practicable and to ensuring that the transition to a carbon neutral
15 economy is equitable for all New Yorkers and a transitioning workforce.

16 12. New York state acknowledges that worsening climate impacts will
17 disproportionately affect low-income and disadvantaged communities, and
18 is committed to making systemic changes to address the unequal impacts
19 of negative environmental burdens on distressed communities and sharing
20 the burdens and benefits of addressing climate change equitably and
21 fairly.

22 13. New York state is committed to ensuring that by the year 2040 one
23 hundred percent of its electricity is generated by clean sources, that
24 by 2030 seventy percent of its electricity is generated by renewable
25 sources and that the state is on a path to becoming carbon neutral econ-
26 omy-wide as soon as practicable.

27 § 3. The energy law is amended by adding a new section 6-105 to read
28 as follows:

1 § 6-105. Climate action council and roadmap for statewide carbon
2 neutrality. 1. It is hereby established as state policy that, as soon as
3 practicable, the state must sequester or offset a greater quantity of
4 atmospheric greenhouse gases than are emitted within the state, and that
5 in the consideration of carbon neutrality, the state must take into
6 account both atmospheric carbon and greenhouse gas emissions as well as
7 offsets from the local sequestration of atmospheric carbon and green-
8 house gases through long-term sinks and reservoirs.

9 2. In furtherance of state policy provided in subdivision one of this
10 section, there is hereby established a climate action council, which
11 shall consist of the following members or their designees:

12 (a) the commissioner of the state department of environmental conser-
13 vation;

14 (b) the president of the energy research and development authority;

15 (c) the chair of the public service commission;

16 (d) the commissioner of labor of the state of New York;

17 (e) the commissioner of the state department of transportation;

18 (f) the commissioner of agriculture and markets;

19 (g) one representative of clean energy associations;

20 (h) one member of an organization dedicated to environmental justice
21 issues;

22 (i) one representative of labor organizations; and

23 (j) any others as may be necessary to carry out the duties and respon-
24 sibilities under this section.

25 The members specified in paragraphs (g), (h), (i) and (j) of this
26 subdivision shall be promptly appointed by the governor, each for a term
27 of two years, provided that such person's membership shall continue

1 after such two year term if reappointed or until a successor is
2 appointed.

3 3. The climate action council will be co-chaired by the commissioners
4 of the department of environmental conservation and the president of the
5 energy research and development authority. It shall meet as often as is
6 necessary, but no less than three times per year, and under circum-
7 stances as are appropriate to fulfilling its duties under this section.
8 All members shall be provided with written notice reasonably in advance
9 of each meeting with date, time and location of such meeting.

10 4. The climate action council shall develop a roadmap of recommenda-
11 tions for attaining the statewide greenhouse gas emission goals of forty
12 percent reduction from 1990 levels by two thousand thirty and carbon
13 neutrality in all sectors of the economy which shall inform the state
14 energy planning council's adoption of a state energy plan in accordance
15 with section 6-104 of this article. To accommodate the work of the
16 climate action council, the state energy planning council shall complete
17 the next state energy plan required by this article no later than Decem-
18 ber thirty-first, two thousand twenty.

19 5. The roadmap required by subdivision four of this section shall
20 identify and make recommendations on regulatory measures, clean energy
21 programs, and other state actions and policies that will ensure the
22 attainment of statewide emission reduction and carbon neutrality goals.
23 In developing the roadmap required by subdivision four of this section
24 the council shall:

25 (a) recognize the global nature of anthropogenic climate change and
26 prioritize regional, multistate and international collaboration and
27 action to deliver maximum impact;

1 (b) engage the states in the U.S. Climate Alliance on pathways to
2 achieving a proportional share of the United Nations Paris Agreement
3 objective to keep global anthropogenic temperature increase to well
4 below 2 degrees Celsius while striving to limit the increase to 1.5
5 degrees Celsius;

6 (c) explore with U.S. Climate Alliance states regional market-based
7 programs and initiatives that can deliver environmental sustainability
8 and carbon neutrality in support of the Paris Agreement;

9 (d) consider all relevant information pertaining to greenhouse gas
10 emissions reduction programs among states in the U.S. Climate Alliance
11 as well as in other states, regions and nations;

12 (e) evaluate, using economic models, emission estimation techniques
13 and other scientific methods, the potential costs and potential economic
14 and non-economic benefits of transitioning to a carbon-neutral economy
15 on a statewide and multistate basis, taking into account the impact on
16 consumers and any regional variations and make such evaluation publicly
17 available;

18 (f) evaluate, using economic models, emission estimation techniques
19 and other scientific methods the economic, environmental, and public
20 health benefits and co-benefits of greenhouse gas emissions reductions
21 on a statewide and multistate basis, taking into account the value of
22 carbon, established by the department of environmental conservation
23 pursuant to section 75-0107 of the environmental conservation law, and
24 using any other tools that the council deems useful and pertinent for
25 this analysis; and

26 (g) consult with the environmental justice and just transition working
27 group established pursuant to this section, and other stakeholders iden-
28 tified by the council.

1 6. The programs and measures considered the roadmap as required by
2 subdivision four of this section may include:

3 (a) performance-based standards for sources of greenhouse gas emis-
4 sions, including but not limited to sources in the electricity, trans-
5 portation, building, industrial, commercial, and agricultural sectors;

6 (b) market-based mechanisms to reduce statewide greenhouse gas emis-
7 sions on a statewide and multistate basis or emissions from a particular
8 source category or categories, including an examination of the imposi-
9 tion of fees per ton of carbon dioxide equivalent emitted and the impo-
10 sition of emissions caps accompanied by a system of tradable emission
11 allowances;

12 (c) programs to reduce emissions from the electricity sector by tran-
13 sitioning from fossil fuel-based generation to generation powered by
14 clean resources or energy efficiency measures to the extent practicable,
15 including an analysis of technologies and other measures that should be
16 developed to facilitate such transition;

17 (d) land use and transportation planning measures aimed at reducing
18 greenhouse gas emissions on a statewide and multistate basis;

19 (e) measures to promote the beneficial electrification of personal and
20 freight transport, and other strategies to reduce greenhouse gas emis-
21 sions from the transportation sector;

22 (f) measures to achieve reductions in energy use in existing residen-
23 tial or commercial buildings, including the beneficial electrification
24 of water and space heating in buildings, establishing appliance effi-
25 ciency standards, strengthening building energy codes, requiring annual
26 building energy benchmarking, disclosing energy efficiency in home
27 sales, and expanding the ability of state facilities to utilize perform-
28 ance contracting;

1 (g) recommendations to aid in the transition of the New York state
2 workforce and the rapidly emerging clean energy industry;

3 (h) measures to achieve long-term carbon sequestration and/or promote
4 best management practices in land use, agriculture and forestry;

5 (i) measures to limit the use of chemicals, substances or products
6 that contribute to global climate change when released to the atmos-
7 phere, but are not intended for end-use combustion;

8 (j) mechanisms to limit emission leakage as defined in subdivision
9 eleven of section 75-0101 of the environmental conservation law; and

10 (k) verifiable, enforceable and voluntary emissions reduction meas-
11 ures.

12 7. The council shall provide meaningful opportunities for public
13 comment from all persons who will be impacted by the roadmap required by
14 subdivision four of this section, including public hearing opportunities
15 in all regions of the state, and shall allow at least one hundred twenty
16 days for the submission of public comment. The council is authorized to
17 conduct any public hearings associated with the roadmap in conjunction
18 with public hearings required for the state energy plan.

19 8. The council shall transmit the roadmap required by subdivision four
20 of this section to the governor, the speaker of the assembly, and the
21 temporary president of the senate. The council shall prepare and submit
22 a report, by December thirty-first, two thousand nineteen, and annually
23 thereafter, until completion of the roadmap required by subdivision four
24 of this section, detailing the progress of the council and identify any
25 interim recommendations on regulatory measures, clean energy programs,
26 and other state actions and policies that will ensure the attainment of
27 statewide emission reduction and carbon neutrality goals.

1 9. The council may consult with the Long Island power authority and
2 the power authority of the state of New York, and such authorities as
3 are authorized to cooperate with the council and provide input as
4 requested.

5 10. The Long Island power authority and the power authority of the
6 state of New York are authorized, as deemed feasible and advisable by
7 their respective governing boards, to make a voluntary contribution of
8 funds to mitigate part of the cost of development of the roadmap
9 required by subdivision four of this section.

10 11. Staff services shall be performed by the departments of public
11 service, environmental conservation, transportation, agriculture and
12 markets, labor, and the New York state energy research and development
13 authority, as directed by the council. Assistance shall also be made
14 available, as requested by the council, from other agencies, departments
15 and public authorities of the state. The council may provide for its own
16 representation in all actions or proceedings in which it is a party.

17 § 4. The energy law is amended by adding a new section 6-110 to read
18 as follows:

19 § 6-110. Environmental justice and just transition working group. 1.
20 There is hereby established an environmental justice and just transition
21 working group which shall consist of advocates for environmental justice
22 and community leaders and representatives of New York's workforce, and
23 have equal representation from New York city communities, rural communi-
24 ties, and upstate urban communities.

25 2. The working group shall advise the department of environmental
26 conservation, the energy research and development authority, the depart-
27 ment of public service, the department of labor, the climate action
28 council, and other agencies as appropriate, on:

1 (a) the development of statewide greenhouse gas emissions limits
2 established pursuant to section 75-0103 of the environmental conserva-
3 tion law;

4 (b) the preparation of a roadmap for reducing greenhouse gas emis-
5 sions, pursuant to the procedures set forth in section 6-105 of the
6 energy law that shall identify existing climate change mitigation and
7 adaptation efforts at the federal, state, and local levels and may make
8 recommendations regarding how such policies may improve the state's
9 efforts;

10 (c) the preparation of a roadmap for addressing issues and opportu-
11 nities related to the transition of the New York state workforce and the
12 rapidly emerging clean energy industry; and

13 (d) the transition of communities away from conventional energy indus-
14 tries and towards new opportunities in the clean energy economy.

15 § 5. The energy law is amended by adding a new section 6-112 to read
16 as follows:

17 § 6-112. Supplemental analysis for one hundred percent clean electric-
18 ity. 1. The board shall undertake the following assessment to supplement
19 information for future energy planning: on or before December thirty-
20 first, two thousand twenty-four, and every four years thereafter, the
21 board shall incorporate:

22 (a) analysis and recommendations into each plan supporting policies
23 and actions that would meet the state's objective of ensuring that the
24 state's electricity demand is supplied from one hundred percent clean
25 energy resources by the year two thousand forty in an economical and
26 technically feasible manner; and

27 (b) analysis and recommendations into each plan supporting policies
28 and actions that would advance the state toward the objective of meeting

1 the greenhouse gas emission reduction limits established by the depart-
2 ment of environmental conservation pursuant to section 75-0103 of the
3 environmental conservation law.

4 2. The board may consult with the Long Island power authority, the
5 power authority of the state of New York, any other state agency or
6 authority, and the bulk system operator as deemed necessary by the
7 board, and all state agencies and authorities are authorized to cooper-
8 ate with the board and provide input as requested with respect to such
9 assessment.

10 § 6. The public service law is amended by adding a new section 77-a to
11 read as follows:

12 § 77-a. New York state clean energy program. 1. The term "renewable
13 energy sources" when used in this section shall be defined by the
14 commission, and shall include but not be limited to, at a minimum, solar
15 photovoltaic generation, wind generation, existing hydroelectric gener-
16 ation as well as new hydroelectric generation subject to and compliant
17 with rules established by the commission and generators that use biogas
18 or other biofuels to generate electricity subject to and compliant with
19 rules established by the commission.

20 2. The term "clean energy sources" when used in this section shall be
21 defined by the commission, in consultation with the department of envi-
22 ronmental conservation, and shall include electric generation that
23 releases zero or de minimis net greenhouse gas emissions to the atmos-
24 phere as a byproduct of generating electricity, including electricity
25 generated by biofuels that are determined by the department of environ-
26 mental conservation to be carbon neutral.

27 3. Within one hundred twenty days of the effective date of this
28 section, the commission shall commence a proceeding or modify an exist-

1 ing proceeding to establish a clean energy program that shall require
2 that New York state load serving entities:

3 (a) meet one hundred percent of statewide electrical energy demand
4 with clean energy sources by the year two thousand forty;

5 (b) meet seventy percent of statewide electrical energy demand with
6 renewable energy sources by the year two thousand thirty; and

7 (c) demonstrate each year that the required percentage of their elec-
8 tric energy demand was met with clean and renewable energy sources
9 through methods or mechanisms established by the commission.

10 4. The commission may establish minimum annual percentage target
11 requirements for load serving entities for each year, or period of
12 years, of the program. In establishing such program, the commission
13 shall consult with the Long Island power authority, the department of
14 environmental conservation, the power authority of the state of New York
15 and the New York energy research and development authority.

16 § 7. Section 1005 of the public authorities law is amended by adding a
17 new subdivision 26 to read as follows:

18 26. To cooperate with the public service commission, the Long Island
19 power authority and the New York state energy research and development
20 authority to meet New York state's climate change and environmental
21 goals including those established pursuant to and consistent with
22 section seventy-seven-a of the public service law, section 75-0103 of
23 the environmental conservation law and section 6-105 of the energy law.

24 § 8. Paragraph 1 of subdivision (gg) of section 1020-f of the public
25 authorities law, as added by section 7 of part A of chapter 173 of the
26 laws of 2013, is amended to read as follows:

27 1. The authority in coordination with the service provider, the power
28 authority of the state of New York and the New York state energy

1 research and development authority shall, to the extent the authority's
2 rates are sufficient to provide safe and adequate transmission and
3 distribution service, and the measures herein, undertake actions to
4 design and administer renewable energy and energy efficiency measures in
5 the service area, with the goal of continuing and expanding such meas-
6 ures that cost-effectively reduce system-wide peak demand, minimize
7 long-term fuel price risk to rate payers, lower emissions, improve envi-
8 ronmental quality, including the requirements established pursuant to
9 and consistent with section seventy-seven-a of the public service law,
10 section 75-0103 of the environmental conservation law and section 6-105
11 of the energy law and seek to meet New York state climate change and
12 environmental goals. Such actions shall also include implementation of
13 any renewable energy competitive procurement or feed-in-tariff programs
14 that were approved by the authority as of the effective date of the
15 chapter of the laws of two thousand thirteen which added this subdivi-
16 sion.

17 § 9. The environmental conservation law is amended by adding a new
18 article 75 to read as follows:

19 ARTICLE 75

20 CLIMATE CHANGE

21 Section 75-0101. Definitions.

22 75-0103. Statewide greenhouse gas emissions limits.

23 75-0105. Regulations to achieve statewide greenhouse gas emis-
24 sions reductions.

25 75-0107. Value of carbon.

26 § 75-0101. Definitions.

27 For the purposes of this article, the following definitions apply:

1 1. "Council" means the climate action council established pursuant to
2 section 6-105 of the energy law.

3 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
4 mass that would produce the same integrated radiative forcing as a given
5 mass of another greenhouse gas over a one hundred year or other appro-
6 priate time frame after emission, as determined by the department.

7 3. "Carbon neutrality policy" means the state policy established
8 pursuant to subdivision one of section 6-105 of the energy law.

9 4. "Carbon neutrality roadmap" means the roadmap for statewide carbon
10 neutrality prepared by the climate action council pursuant to section
11 6-105 of the energy law.

12 5. "Climate action council" means the board established pursuant to
13 subdivision two of section 6-105 of the energy law.

14 6. "Emissions reduction measures" means programs, measures and stand-
15 ards, including those authorized pursuant to this chapter, applicable to
16 sources or categories of sources that are designed to reduce emissions
17 of greenhouse gases.

18 7. "Environmental justice and just transition working group" means the
19 group established pursuant to section 6-110 of the energy law.

20 8. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
21 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
22 substance emitted into the air that may be reasonably anticipated to
23 cause or contribute to anthropogenic climate change, as determined by
24 the department.

25 9. "Greenhouse gas emission limit" means an authorization, during a
26 specified year, for a greenhouse gas emission source to emit up to a
27 level or rate of greenhouse gases specified by the department, expressed
28 in tons of carbon dioxide equivalent.

10. "Greenhouse gas emission source" or "source" means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions including prime suppliers, with the exception of agricultural emissions from livestock, that the department determines:

(a) will enable the state to effectively reduce greenhouse gas emissions through the source's participation in a program or mechanism; and

(b) is capable of being monitored for compliance.

11. "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.

12. "State energy plan" means the plan issued by the state energy planning board pursuant to article six of the energy law.

13. "Statewide greenhouse gas emissions" means the total annual emissions of greenhouse gases produced within the state from sources. Statewide greenhouse gas emissions shall be expressed in short tons of carbon dioxide equivalents.

14. "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the maximum allowable level of statewide greenhouse gas emissions in a specified year.

§ 75-0103. Statewide greenhouse gas emissions limits.

Within two years of the effective date of this article, the department shall promulgate a statewide greenhouse gas emissions limit measured in units of carbon dioxide equivalent for the year two thousand thirty, at which statewide greenhouse gas emissions would achieve a forty percent reduction from nineteen hundred ninety emission levels based on an inventory of statewide emissions developed or approved by the department. The department may periodically revise the limit based on new information.

1 § 75-0105. Regulations to achieve statewide greenhouse gas emissions
2 reductions.

3 1. In addition to regulations promulgated by the department pursuant
4 to existing authority established by this chapter, no later than four
5 years after the effective date of this article, the department shall
6 promulgate rules and regulations consistent with measures recommended in
7 the carbon neutrality roadmap issued by the climate action council to
8 support compliance with the statewide greenhouse gas emission limits
9 established by the department pursuant to section 75-0103 of this arti-
10 cle.

11 2. The regulations promulgated by the department pursuant to this
12 section may include, as appropriate:

13 (a) legally enforceable emissions reduction measures or greenhouse gas
14 emission limits, which may include performance standards or measures or
15 other requirements to control emissions from greenhouse gas emission
16 sources;

17 (b) measures to reduce emissions from greenhouse gas emission sources
18 or source categories that have a cumulatively significant impact on
19 statewide greenhouse gas emissions;

20 (c) measures, as determined by the department, to limit or preclude
21 the use of certain chemicals or substances, including hydrofluorocar-
22 bons, perfluorinated compounds, sulfur hexafluoride, and nitrous oxide,
23 that contribute to global climate change when released to the atmos-
24 phere, but are not intended for end-use combustion; and

25 (d) mechanisms to minimize leakage.

26 § 75-0107. Value of carbon.

27 1. No later than one year after the effective date of this article,
28 the department, in consultation with the energy research and development

1 authority, shall establish a social cost of carbon for use by New York
2 state agencies, expressed in terms of dollars per ton of carbon dioxide
3 equivalent.

4 2. The social cost of carbon shall serve as a monetary estimate of the
5 value of not emitting a ton of greenhouse gas emissions. As determined
6 by the department, the social cost of carbon may be based on marginal
7 greenhouse gas abatement costs or on the global economic, environmental,
8 and social impacts of emitting a marginal ton of greenhouse gas emis-
9 sions into the atmosphere, utilizing a range of appropriate discount
10 rates, including a rate of zero.

11 3. In developing the social cost of carbon, the department shall
12 consider prior or existing estimates of the social cost of carbon issued
13 or adopted by the federal government, appropriate international bodies,
14 or other appropriate and reputable scientific organizations.

15 § 10. This act shall take effect immediately.

16 PART Y

17 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
18 New York state urban development corporation act, relating to the powers
19 of the New York state urban development corporation to make loans, as
20 amended by section 1 of part P of chapter 58 of the laws of 2018, is
21 amended to read as follows:

22 § 2. This act shall take effect immediately provided, however, that
23 section one of this act shall expire on July 1, [2019] 2020, at which
24 time the provisions of subdivision 26 of section 5 of the New York state
25 urban development corporation act shall be deemed repealed; provided,
26 however, that neither the expiration nor the repeal of such subdivision

1 as provided for herein shall be deemed to affect or impair in any manner
2 any loan made pursuant to the authority of such subdivision prior to
3 such expiration and repeal.

4 § 2. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2019.

6 PART Z

7 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
8 of the laws of 1968 constituting the New York state urban development
9 corporation act, as amended by section 1 of part O of chapter 58 of the
10 laws of 2018, is amended to read as follows:

11 3. The provisions of this section shall expire, notwithstanding any
12 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
13 the laws of 1996 or of any other law, on July 1, [2019] 2020.

14 § 2. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after July 1, 2019.

16 PART AA

17 Section 1. Subdivision 2, paragraph (e) of subdivision 7, paragraph
18 (b) of subdivision 8, subdivision 13, paragraph (e) of subdivision 15,
19 subdivisions 16, 19, 21 and 22 of section 310 of the executive law, as
20 added by chapter 261 of the laws of 1988, paragraph (e) of subdivision 7
21 and paragraph (e) of subdivision 15 as amended by chapter 22 of the laws
22 of 2014, subdivision 13 as amended by chapter 506 of the laws of 2009,
23 subdivision 16 as added by section 3 of part BB of chapter 59 of the
24 laws of 2006, and subdivisions 19, 21 and 22 as added by chapter 175 of

1 the laws of 2010, are amended and a new subdivision 24 is added to read
2 as follows:

3 2. "Contracting agency" shall mean a state agency or state funded
4 entity which is a party or a proposed party to a state contract or, in
5 the case of a state contract described in paragraph (c) of subdivision
6 thirteen of this section, shall mean the New York state housing finance
7 agency, housing trust fund corporation or affordable housing corpo-
8 ration, whichever has made or proposes to make the grant or loan for the
9 state assisted housing project.

10 (e) an enterprise owned by an individual or individuals, whose owner-
11 ship, control and operation are relied upon for certification, with a
12 personal net worth that does not exceed three million five hundred thou-
13 sand dollars, or such other amount as the director shall set forth in
14 regulations, as adjusted annually on the first of January for inflation
15 according to the consumer price index of the previous year; and

16 (b) [Hispanic] Hispanic/Latino persons of Mexican, Puerto Rican,
17 Dominican, Cuban, Central or South American of either Indian or Hispanic
18 origin, regardless of race;

19 13. "State contract" shall mean: (a) a written agreement or purchase
20 order instrument, providing for a total expenditure in excess of twen-
21 ty-five thousand dollars, whereby a contracting agency is committed to
22 expend or does expend or grant funds in return for labor, services
23 including but not limited to legal, financial and other professional
24 services, supplies, equipment, materials or any combination of the fore-
25 going, to be performed for, on behalf of, or rendered or furnished to
26 the contracting agency; (b) a written agreement in excess of one hundred
27 thousand dollars whereby a contracting agency is committed to expend or
28 grant or does expend funds for the acquisition, construction, demoli-

1 tion, replacement, major repair or renovation of real property and
2 improvements thereon; [and] (c) a written agreement in excess of one
3 hundred thousand dollars whereby the owner of a state assisted housing
4 project is committed to expend or does expend funds for the acquisition,
5 construction, demolition, replacement, major repair or renovation of
6 real property and improvements thereon for such project; and (d) a writ-
7 ten agreement or purchase order instrument, providing for a total
8 expenditure in excess of fifty thousand dollars, whereby a state-funded
9 entity is committed to expend or does expend funds paid to the state-
10 funded entity by the state of New York, including those paid to the
11 state-funded entity pursuant to an appropriation, for any product or
12 service.

13 (e) an enterprise owned by an individual or individuals, whose owner-
14 ship, control and operation are relied upon for certification, with a
15 personal net worth that does not exceed three million five hundred thou-
16 sand dollars, or such other amount as the director shall set forth in
17 regulations, as adjusted annually on the first of January for inflation
18 according to the consumer price index of the previous year; and

19 16. "Statewide advocate" shall mean the person appointed by the
20 [commissioner] director to serve in the capacity of the minority and
21 women-owned business enterprise statewide advocate and procurement
22 ombudsman.

23 19. "Personal net worth" shall mean the aggregate adjusted net value
24 of the assets of an individual remaining after total liabilities are
25 deducted. Personal net worth includes the individual's share of assets
26 held jointly with said individual's spouse and does not include the
27 individual's ownership interest in the certified minority and women-
28 owned business enterprise, the individual's [equity in his or her prima-

1 ry residence] ownership interest in any holding company that leases real
2 property, machinery, equipment, or vehicles exclusively to the certified
3 minority or women-owned business enterprise, the value of up to two
4 hundred percent of the median value of owner-occupied housing units in
5 the municipality in which the individual resides, or up to five hundred
6 thousand dollars of the present cash value of any qualified retirement
7 savings plan or individual retirement account held by the individual
8 less any penalties for early withdrawal.

9 21. "The [2010] disparity study" shall refer to the most recent
10 disparity study commissioned by the [empire state development corpo-
11 ration] department of economic development, pursuant to section three
12 hundred twelve-a of this article[, and published on April twenty-nine,
13 two thousand ten].

14 22. "Diversity practices" shall mean the contractor's practices and
15 policies with respect to:

16 (a) [utilizing] mentoring certified minority and women-owned business
17 enterprises in contracts awarded by a state agency or other public
18 corporation, as subcontractors and suppliers; [and]

19 (b) entering into partnerships, joint ventures or other similar
20 arrangements with certified minority and women-owned business enter-
21 prises as defined in this article or other applicable statute or regu-
22 lation governing an entity's utilization of minority or women-owned
23 business enterprises; and

24 (c) the representation of minority group members and women as members
25 of the board of directors or executive officers of the contractor.

26 24. "State-funded entity" shall mean any unit of local government,
27 including, but not limited to a county, city, town, village or school

1 district that is paid pursuant to an appropriation in a state fiscal
2 year.

3 § 2. The opening paragraph of subdivision 4 of section 311 of the
4 executive law, as amended by chapter 361 of the laws of 2009, is amended
5 to read as follows:

6 The director [may] shall provide assistance to, and facilitate access
7 to programs serving [certified businesses as well as applicants] minori-
8 ty and women-owned business enterprises to ensure that such businesses
9 benefit, as needed, from technical, managerial and financial, and gener-
10 al business assistance; training; marketing; organization and personnel
11 skill development; project management assistance; technology assistance;
12 bond and insurance education assistance; and other business development
13 assistance. The director shall maintain a toll-free number at the
14 department of economic development to be used to answer questions
15 concerning the MWBE certification process. In addition, the director
16 may, either independently or in conjunction with other state agencies:

17 § 3. Section 311-a of the executive law, as added by section 4 of part
18 BB of chapter 59 of the laws of 2006, is amended to read as follows:

19 § 311-a. Minority and women-owned business enterprise statewide advo-
20 cate. 1. There is hereby established within the [department of economic
21 development] division of minority and women's business an office of the
22 minority and women-owned business enterprise statewide advocate. The
23 statewide advocate shall be appointed by the commissioner [with the
24 advice of the small business advisory board as established in section
25 one hundred thirty-three of the economic development law and shall serve
26 in the unclassified service of the director. The statewide advocate
27 shall be located in the Albany empire state development office] in
28 consultation with the director.

1 2. The advocate shall act as a liaison for minority and women-owned
2 business enterprises (MWBES) to assist them in obtaining technical,
3 managerial, financial and other business assistance for certified busi-
4 nesses and applicants. The advocate shall receive and investigate
5 complaints brought by or on behalf of MWBEs concerning certification
6 delays and instances of violations of [law] the requirements of this
7 article by contractors and by state agencies. [The statewide advocate
8 shall assist certified businesses and applicants in the certification
9 process.] Other functions of the statewide advocate shall be directed by
10 the commissioner. The advocate shall have the resources necessary to
11 perform its functions, and, as such, may request and the director may
12 appoint staff and employees of the division of minority and women busi-
13 ness development to support the administration of the office of the
14 statewide advocate.

15 3. The statewide advocate [shall establish a toll-free number at the
16 department of economic development to be used to answer questions
17 concerning the MWBE certification process] shall conduct periodic audits
18 of state agencies' compliance with the requirements of section three
19 hundred fifteen of this article, such audits shall include a review of
20 the books and records of state agencies concerning, among other things,
21 annual agency expenditures, annual participation of minority and women-
22 owned business enterprises as prime contractors and subcontractors in
23 state agencies' state contracts, and documentation of state agencies'
24 good faith efforts to maximize minority and women-owned business enter-
25 prise participation in such agencies' contracting.

26 4. The statewide advocate shall investigate complaints by minority-
27 owned business enterprises or women-owned business enterprises, certi-
28 fied as such by the division of minority and women's business develop-

1 ment, to the minority and women-owned business enterprise statewide
2 advocate concerning a procuring governmental entity's failure to comply
3 with the requirements of section three hundred fifteen of this article.

4 5. The statewide advocate shall report to the director and commission-
5 er by November fifteenth on an annual basis on all activities related to
6 fulfilling the obligations of the office of the statewide advocate. [The
7 commissioner shall include the unedited text of the statewide advocate's
8 report within the reports submitted by the department of economic devel-
9 opment to the governor and the legislature.]

10 § 4. Section 312-a of the executive law, as amended by section 1 of
11 part Q of chapter 58 of the laws of 2015, is amended to read as follows:

12 § 312-a. Study of minority and women-owned business [enterprise
13 programs] enterprises. 1. The director of the division of minority and
14 women-owned business development [in the department of economic develop-
15 ment] is authorized and directed to recommission a statewide disparity
16 study regarding the participation of minority and women-owned business
17 enterprises in state contracts since the amendment of this article to be
18 delivered to the governor and legislature [no later than August
19 fifteenth, two thousand sixteen]. The study shall be prepared by an
20 entity independent of the department and selected through a request for
21 proposal process. The purpose of such study is:

22 (a) to determine whether there is a disparity between the number of
23 qualified minority and women-owned businesses ready, willing and able to
24 perform state contracts for commodities, services and construction, and
25 the number of such contractors actually engaged to perform such
26 contracts, and to determine what changes, if any, should be made to
27 state policies affecting minority and women-owned business enterprises;
28 and (b) to determine whether there is a disparity between the number of

1 qualified minorities and women ready, willing and able, with respect to
2 labor markets, qualifications and other relevant factors, to participate
3 in contractor employment, management level bodies, including boards of
4 directors, and as senior executive officers within contracting entities
5 and the number of such group members actually employed or affiliated
6 with state contractors in the aforementioned capacities, and to deter-
7 mine what changes, if any, should be made to state policies affecting
8 minority and women group populations with regard to state contractors'
9 employment and appointment practices relative to diverse group members.
10 Such study shall include, but not be limited to, an analysis of the
11 history of minority and women-owned business enterprise programs and
12 their effectiveness as a means of securing and ensuring participation by
13 minorities and women, and a disparity analysis by market area and region
14 of the state. Such study shall distinguish between minority males,
15 minority females and non-minority females in the statistical analysis.

16 2. The director of the division of minority and women-owned business
17 development is directed to transmit the disparity study to the governor
18 and the legislature [not later than August fifteenth, two thousand
19 sixteen], and to post the study on the website of the department of
20 economic development.

21 § 5. Section 313 of the executive law, as amended by chapter 175 of
22 the laws of 2010, is amended to read as follows:

23 § 313. Opportunities for minority and women-owned business enter-
24 prises. 1. Goals and requirements for agencies and contractors. Each
25 agency shall structure procurement procedures for contracts made direct-
26 ly or indirectly to minority and women-owned business enterprises, in
27 accordance with the findings of the [two thousand ten] most recent
28 disparity study, consistent with the purposes of this article, to

1 attempt to achieve [the following results with regard to] total annual
2 statewide procurement[:

3 (a) construction industry for certified minority-owned business enter-
4 prises: fourteen and thirty-four hundredths percent;

5 (b) construction industry for certified women-owned business enter-
6 prises: eight and forty-one hundredths percent;

7 (c) construction related professional services industry for certified
8 minority-owned business enterprises: thirteen and twenty-one hundredths
9 percent;

10 (d) construction related professional services industry for certified
11 women-owned business enterprises: eleven and thirty-two hundredths
12 percent;

13 (e) non-construction related services industry for certified minori-
14 ty-owned business enterprises: nineteen and sixty hundredths percent;

15 (f) non-construction related services industry for certified women-
16 owned business enterprises: seventeen and forty-four hundredths percent;

17 (g) commodities industry for certified minority-owned business enter-
18 prises: sixteen and eleven hundredths percent;

19 (h) commodities industry for certified women-owned business enter-
20 prises: ten and ninety-three hundredths percent;

21 (i) overall agency total dollar value of procurement for certified
22 minority-owned business enterprises: sixteen and fifty-three hundredths
23 percent;

24 (j) overall agency total dollar value of procurement for certified
25 women-owned business enterprises: twelve and thirty-nine hundredths
26 percent; and

1 (k) overall agency total dollar value of procurement for certified
2 minority, women-owned business enterprises: twenty-eight and ninety-two
3 hundredths percent] goals as specified by the director.

4 1-a. The director shall ensure that each state agency has been
5 provided with [a] an electric copy of the [two thousand ten] most recent
6 disparity study.

7 1-b. Each agency shall develop and adopt agency-specific goals based
8 on the findings of the [two thousand ten] most recent disparity study.

9 2. The director shall promulgate rules and regulations [pursuant to]
10 based on the [goals established in subdivision one of this section]
11 findings of the most recent disparity study that provide measures and
12 procedures to ensure that certified minority and women-owned businesses
13 shall be given the opportunity for maximum feasible participation in the
14 performance of state contracts and to assist in the agency's identifica-
15 tion of those state contracts for which minority and women-owned certi-
16 fied businesses may best bid to actively and affirmatively promote and
17 assist their participation in the performance of state contracts [so as
18 to facilitate the agency's achievement of the maximum feasible portion
19 of the goals for state contracts to such businesses].

20 2-a. The director shall promulgate rules and regulations that will
21 accomplish the following:

22 (a) provide for the certification and decertification of minority and
23 women-owned business enterprises for all agencies through a single proc-
24 ess that meets applicable requirements;

25 (b) require that each contract solicitation document accompanying each
26 solicitation set forth the expected degree of minority and women-owned
27 business enterprise participation based, in part, on:

1 (i) the potential subcontract opportunities available in the prime
2 procurement contract; [and]

3 (ii) the availability[, as contained within the study,] of certified
4 minority and women-owned business enterprises to respond competitively
5 to the potential subcontract opportunities as reflected in the divi-
6 sion's directory of certified minority and women-owned business enter-
7 prises; and

8 (iii) the findings of the disparity study;

9 (c) require that each agency provide a current list of certified
10 minority business enterprises to each prospective contractor or direct
11 them to the division's directory of certified minority and women-owned
12 business enterprises for such purpose;

13 (d) allow a contractor that is a certified minority-owned or women-
14 owned business enterprise to use the work it performs to meet require-
15 ments for use of certified minority-owned or women-owned business enter-
16 prises as subcontractors;

17 (e) establish criteria for agencies to credit the participation of
18 minority and women-owned business enterprises towards the achievement of
19 the minority and women-owned business enterprise participation goals on
20 a state contract based on the commercially useful function provided by
21 each minority and women-owned business enterprise on the contract;

22 (f) provide for joint ventures, which a bidder may count toward meet-
23 ing its minority and women-owned business enterprise participation;

24 [(f)] (g) consistent with subdivision six of this section, provide for
25 circumstances under which an agency or state-funded entity may waive
26 obligations of the contractor relating to minority and women-owned busi-
27 ness enterprise participation;

1 [(g)] (h) require that an agency or state-funded entity verify that
2 minority and women-owned business enterprises listed in a successful bid
3 are actually participating to the extent listed in the project for which
4 the bid was submitted;

5 [(h)] (i) provide for the collection of statistical data by each agen-
6 cy or state-funded entity concerning actual minority and women-owned
7 business enterprise participation; [and

8 (i)] (j) require each agency to consult the most current disparity
9 study when calculating [agency-wide and contract specific] participation
10 goals pursuant to this article; and

11 (k) provide for the periodic collection of reports from state-funded
12 entities in such form and at such time as the director shall require.

13 3. Solely for the purpose of providing the opportunity for meaningful
14 participation by certified businesses in the performance of state
15 contracts as provided in this section, state contracts shall include
16 leases of real property by a state agency to a lessee where: the terms
17 of such leases provide for the construction, demolition, replacement,
18 major repair or renovation of real property and improvements thereon by
19 such lessee; and the cost of such construction, demolition, replacement,
20 major repair or renovation of real property and improvements thereon
21 shall exceed the sum of one hundred thousand dollars. Reports to the
22 director pursuant to section three hundred fifteen of this article shall
23 include activities with respect to all such state contracts. Contracting
24 agencies shall include or require to be included with respect to state
25 contracts for the acquisition, construction, demolition, replacement,
26 major repair or renovation of real property and improvements thereon,
27 such provisions as may be necessary to effectuate the provisions of this
28 section in every bid specification and state contract, including, but

1 not limited to: (a) provisions requiring contractors to make a good
2 faith effort to solicit active participation by enterprises identified
3 in the directory of certified businesses [provided to the contracting
4 agency by the office]; (b) requiring the parties to agree as a condition
5 of entering into such contract, to be bound by the provisions of section
6 three hundred sixteen of this article; and (c) requiring the contractor
7 to include the provisions set forth in paragraphs (a) and (b) of this
8 subdivision in every subcontract in a manner that the provisions will be
9 binding upon each subcontractor as to work in connection with such
10 contract. Provided, however, that no such provisions shall be binding
11 upon contractors or subcontractors in the performance of work or the
12 provision of services that are unrelated, separate or distinct from the
13 state contract as expressed by its terms, and nothing in this section
14 shall authorize the director or any contracting agency to impose any
15 requirement on a contractor or subcontractor except with respect to a
16 state contract.

17 4. In the implementation of this section, the contracting agency shall
18 (a) consult the findings contained within the disparity study evidencing
19 relevant industry specific [availability of certified businesses]
20 disparities in the utilization of minority and women-owned businesses
21 relative to their availability;

22 (b) implement a program that will enable the agency to evaluate each
23 contract to determine the [appropriateness of the] appropriate goal
24 [pursuant to subdivision one of this section] for participation by
25 minority-owned business enterprises and women-owned business
26 enterprises;

27 (c) consider where practicable, the severability of construction
28 projects and other bundled contracts; and

1 (d) consider compliance with the requirements of any federal law
2 concerning opportunities for minority and women-owned business enter-
3 prises which effectuates the purpose of this section. The contracting
4 agency shall determine whether the imposition of the requirements of any
5 such law duplicate or conflict with the provisions hereof and if such
6 duplication or conflict exists, the contracting agency shall waive the
7 applicability of this section to the extent of such duplication or
8 conflict.

9 5. (a) Contracting agencies shall administer the rules and regulations
10 promulgated by the director in a good faith effort to [meet] achieve the
11 maximum feasible [portion of the agency's goals] participation by minor-
12 ity and women owned business enterprises adopted pursuant to this arti-
13 cle and the regulations of the director. Such rules and regulations:
14 shall require a contractor to submit a utilization plan after bids are
15 opened, when bids are required, but prior to the award of a state
16 contract; shall require the contracting agency to review the utilization
17 plan submitted by the contractor and to post the utilization plan and
18 any waivers of compliance issued pursuant to subdivision six of this
19 section on the website of the contracting agency within a reasonable
20 period of time as established by the director; shall require the
21 contracting agency to notify the contractor in writing within a period
22 of time specified by the director as to any deficiencies contained in
23 the contractor's utilization plan; shall require remedy thereof within a
24 period of time specified by the director; shall require the contractor
25 to submit periodic compliance reports relating to the operation and
26 implementation of any utilization plan; shall not allow any automatic
27 waivers but shall allow a contractor to apply for a partial or total
28 waiver of the minority and women-owned business enterprise participation

1 requirements pursuant to subdivisions six and seven of this section;
2 shall allow a contractor to file a complaint with the director pursuant
3 to subdivision eight of this section in the event a contracting agency
4 has failed or refused to issue a waiver of the minority and women-owned
5 business enterprise participation requirements or has denied such
6 request for a waiver; and shall allow a contracting agency to file a
7 complaint with the director pursuant to subdivision nine of this section
8 in the event a contractor is failing or has failed to comply with the
9 minority and women-owned business enterprise participation requirements
10 set forth in the state contract where no waiver has been granted.

11 (b) The rules and regulations promulgated pursuant to this subdivision
12 regarding a utilization plan shall provide that where enterprises have
13 been identified within a utilization plan, a contractor shall attempt,
14 in good faith, to utilize such enterprise at least to the extent indi-
15 cated. A contracting agency may require a contractor to indicate, within
16 a utilization plan, what measures and procedures he or she intends to
17 take to comply with the provisions of this article, but may not require,
18 as a condition of award of, or compliance with, a contract that a
19 contractor utilize a particular enterprise in performance of the
20 contract.

21 (c) Without limiting other grounds for the disqualification of bids or
22 proposals on the basis of non-responsibility, a contracting agency may
23 disqualify the bid or proposal of a contractor as being non-responsible
24 for failure to remedy notified deficiencies contained in the contrac-
25 tor's utilization plan within a period of time specified in regulations
26 promulgated by the director after receiving notification of such defi-
27 ciencies from the contracting agency. Where failure to remedy any noti-
28 fied deficiency in the utilization plan is a ground for disqualifica-

1 tion, that issue and all other grounds for disqualification shall be
2 stated in writing by the contracting agency. Where the contracting agen-
3 cy states that a failure to remedy any notified deficiency in the utili-
4 zation plan is a ground for disqualification the contractor shall be
5 entitled to an administrative hearing, on a record, involving all
6 grounds stated by the contracting agency. Such hearing shall be
7 conducted by the appropriate authority of the contracting agency to
8 review the determination of disqualification. A final administrative
9 determination made following such hearing shall be reviewable in a
10 proceeding commenced under article seventy-eight of the civil practice
11 law and rules, provided that such proceeding is commenced within thirty
12 days of the notice given by certified mail return receipt requested
13 rendering such final administrative determination. Such proceeding shall
14 be commenced in the supreme court, appellate division, third department
15 and such proceeding shall be preferred over all other civil causes
16 except election causes, and shall be heard and determined in preference
17 to all other civil business pending therein, except election matters,
18 irrespective of position on the calendar. Appeals taken to the court of
19 appeals of the state of New York shall be subject to the same prefer-
20 ence.

21 6. Where it appears that a contractor cannot, after a good faith
22 effort, comply with the minority and women-owned business enterprise
23 participation requirements set forth in a particular state contract, a
24 contractor may file a written application with the contracting agency
25 requesting a partial or total waiver of such requirements setting forth
26 the reasons for such contractor's inability to meet any or all of the
27 participation requirements together with an explanation of the efforts
28 undertaken by the contractor to obtain the required minority and women-

1 owned business enterprise participation. In implementing the provisions
2 of this section, the contracting agency shall consider the number and
3 types of minority and women-owned business enterprises [located] avail-
4 able to provide goals or services required under the contract in the
5 region in which the state contract is to be performed, the total dollar
6 value of the state contract, the scope of work to be performed and the
7 project size and term. If, based on such considerations, the contracting
8 agency determines there is not a reasonable availability of contractors
9 on the list of certified business to furnish services for the project,
10 it shall issue a waiver of compliance to the contractor. In making such
11 determination, the contracting agency shall first consider the avail-
12 ability of other business enterprises located in the region and shall
13 thereafter consider the financial ability of minority and women-owned
14 businesses located outside the region in which the contract is to be
15 performed to perform the state contract.

16 7. For purposes of determining a contractor's good faith effort to
17 comply with the requirements of this section or to be entitled to a
18 waiver therefrom the contracting agency shall consider, among other
19 things:

20 (a) whether the contractor has advertised in general circulation
21 media, trade association publications, and minority-focus and women-fo-
22 cus media or other forms of advertisement and, in such event, (i) wheth-
23 er or not certified minority or women-owned businesses which have been
24 solicited by the contractor exhibited interest in submitting proposals
25 for a particular project by communication or other form of contract with
26 the contractor or attending a pre-bid conference, if any, scheduled by
27 the state agency awarding the state contract with certified minority and
28 women-owned business enterprises; and

1 (ii) whether certified businesses which have been solicited by the
2 contractor have responded in a timely fashion to the contractor's solici-
3 tations for timely competitive bid quotations prior to the contracting
4 agency's bid date; and

5 (b) whether [there has been] the contractor provided timely written
6 notification of subcontracting opportunities on the state contract to
7 appropriate certified businesses that appear in the directory of certi-
8 fied businesses prepared pursuant to paragraph (f) of subdivision three
9 of section three hundred eleven of this article; and

10 (c) whether the contractor can reasonably structure the amount of work
11 to be performed under subcontracts in order to increase the likelihood
12 of participation by certified businesses.

13 8. In the event that a contracting agency fails or refuses to issue a
14 waiver to a contractor as requested within twenty days after having made
15 application therefor pursuant to subdivision six of this section or if
16 the contracting agency denies such application, in whole or in part, the
17 contractor may file a complaint with the director pursuant to section
18 three hundred sixteen of this article setting forth the facts and
19 circumstances giving rise to the contractor's complaint together with a
20 demand for relief. The contractor shall serve a copy of such complaint
21 upon the contracting agency by personal service or by certified mail,
22 return receipt requested. The contracting agency shall be afforded an
23 opportunity to respond to such complaint in writing.

24 9. If, after the review of a contractor's minority and [women owned]
25 women-owned business utilization plan or review of a periodic compliance
26 report and after such contractor has been afforded an opportunity to
27 respond to a notice of deficiency issued by the contracting agency in
28 connection therewith, it appears that a contractor is failing or refus-

1 ing to comply with the minority and women-owned business participation
2 requirements as set forth in the state contract and where no waiver from
3 such requirements has been granted, the contracting agency may file a
4 written complaint with the director pursuant to section three hundred
5 sixteen of this article setting forth the facts and circumstances giving
6 rise to the contracting agency's complaint together with a demand for
7 relief. The contracting agency shall serve a copy of such complaint
8 upon the contractor by personal service or by certified mail, return
9 receipt requested. The contractor shall be afforded an opportunity to
10 respond to such complaint in writing.

11 § 6. Section 314 of the executive law, as added by chapter 216 of the
12 laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of
13 2010, subdivision 2-b as added by chapter 409 of the laws of 2018,
14 subdivision 4 as amended and subdivision 5 as added by chapter 399 of
15 the laws of 2014, is amended to read as follows:

16 § 314. Statewide certification program. 1. The director shall promul-
17 gate rules and regulations providing for the establishment of a state-
18 wide certification program including rules and regulations governing the
19 approval, denial or revocation of any such certification including revo-
20 cations for felony convictions for fraudulently misrepresenting the
21 status of minority or women-owned business enterprises. Such rules shall
22 set forth the maximum personal net worth of a minority group member or
23 woman who may be relied upon to certify a business as a minority-owned
24 business enterprise or women-owned business enterprise, and may estab-
25 lish different maximum levels of personal net worth for minority group
26 members and women on an industry-by-industry basis for such industries
27 as the director shall determine. Such rules and regulations shall
28 include, but not be limited to, such matters as may be required to

1 ensure that the established procedures thereunder shall at least be in
2 compliance with the code of fair procedure set forth in section seven-
3 ty-three of the civil rights law and consistent with the provisions of
4 article twenty-three of the correction law.

5 2. For the purposes of this article, the office shall be responsible
6 for verifying businesses as being owned, operated, and controlled by
7 minority group members or women and for certifying such verified busi-
8 nesses. The director shall prepare a directory of certified businesses
9 for use by contracting agencies and contractors in carrying out the
10 provisions of this article. The director shall periodically update the
11 directory.

12 2-a. (a) The director shall establish a procedure enabling the office
13 to accept New York municipal corporation certification verification for
14 minority and women-owned business enterprise applicants in lieu of
15 requiring the applicant to complete the state certification process. The
16 director shall promulgate rules and regulations to set forth criteria
17 for the acceptance of municipal corporation certification. All eligible
18 municipal corporation certifications shall require business enterprises
19 seeking certification to meet the following standards:

20 (i) have at least fifty-one percent ownership by a minority or a
21 women-owned enterprise and be owned by United States citizens or perma-
22 nent resident aliens;

23 (ii) be an enterprise in which the minority and/or women-ownership
24 interest is real, substantial and continuing;

25 (iii) be an enterprise in which the minority and/or women-ownership
26 has and exercises the authority to control independently the day-to-day
27 business decisions of the enterprise;

28 (iv) be an enterprise authorized to do business in this state;

1 (v) be subject to a physical site inspection to verify the fifty-one
2 percent ownership requirement;

3 (vi) be owned by an individual or individuals, whose ownership,
4 control and operation are relied upon for certification, with a personal
5 net worth that does not exceed three million five hundred thousand
6 dollars or such other amount as the director shall set forth in regu-
7 lations, as adjusted annually for inflation according to the consumer
8 price index; and

9 (vii) be an enterprise that is a small business pursuant to subdivi-
10 sion twenty of section three hundred ten of this article.

11 (b) The director shall work with all municipal corporations that have
12 a municipal minority and women-owned business enterprise program to
13 develop standards to accept state certification to meet the municipal
14 corporation minority and women-owned business enterprise certification
15 standards.

16 (c) The director shall establish a procedure enabling the division to
17 accept federal certification verification for minority and women-owned
18 business enterprise applicants, provided said standards comport with
19 those required by the state minority and women-owned business program,
20 in lieu of requiring the applicant to complete the state certification
21 process. The director shall promulgate rules and regulations to set
22 forth criteria for the acceptance of federal certification.

23 2-b. The director shall establish a procedure enabling an applicant
24 who was a military service member to prove his or her race or ethnicity,
25 date of birth, place of birth and verification of address for purposes
26 of certification of the applicant's business as a minority-owned busi-
27 ness by submission of the DD Form 214 issued to the applicant by the
28 United States department of defense upon such applicant's retirement,

1 separation, or discharge from active duty in the armed forces of the
2 United States, provided the DD Form 214 contains such information, in
3 lieu of requiring the applicant to otherwise prove his or her race or
4 ethnicity. The director shall promulgate rules and regulations to set
5 forth criteria for the acceptance of the DD Form 214 by the office.

6 2-c. (a) Each business applying for minority or women-owned business
7 enterprise certification pursuant to this section must agree to allow:

8 (i) the department of taxation and finance to share its tax information
9 with the division; and (ii) the department of labor to share its tax and
10 employer information with the division.

11 (b) Such information provided pursuant to paragraph (a) of this subdi-
12 vision shall be kept confidential by the division in the same manner and
13 under the same condition as such information is kept by the department
14 of taxation and finance or the department of labor.

15 3. Following application for certification pursuant to this section,
16 the director shall provide the applicant with written notice of the
17 status of the application, including notice of any outstanding deficien-
18 cies[, within thirty days]. Within [sixty] thirty days of submission of
19 a final completed application, the director shall provide the applicant
20 with written notice of a determination by the office approving or deny-
21 ing such certification and, in the event of a denial a statement setting
22 forth the reasons for such denial. Upon a determination denying or
23 revoking certification, the business enterprise for which certification
24 has been so denied or revoked shall, upon written request made within
25 thirty days from receipt of notice of such determination, be entitled to
26 a hearing before an independent hearing officer designated for such
27 purpose by the director. In the event that a request for a hearing is
28 not made within such thirty day period, such determination shall be

1 deemed to be final. The independent hearing officer shall conduct a
2 hearing and upon the conclusion of such hearing, issue a written recom-
3 mendation to the director to affirm, reverse or modify such determi-
4 nation of the director. Such written recommendation shall be issued to
5 the parties. The director, within thirty days, by order, must accept,
6 reject or modify such recommendation of the hearing officer and set
7 forth in writing the reasons therefor. The director shall serve a copy
8 of such order and reasons therefor upon the business enterprise by
9 personal service or by certified mail return receipt requested. The
10 order of the director shall be subject to review pursuant to article
11 seventy-eight of the civil practice law and rules.

12 4. The director may, after performing an availability analysis and
13 upon a finding that industry-specific factors coupled with personal net
14 worth or small business eligibility requirements pursuant to subdivi-
15 sions nineteen and twenty of section three hundred ten of this article,
16 respectively, have led to the significant exclusion of businesses owned
17 by minority group members or women in that industry, grant provisional
18 MWBE certification status to applicants from that designated industry,
19 provided, however, that all other eligibility requirements pursuant to
20 subdivision seven or fifteen of section three hundred ten of this arti-
21 cle, as applicable, are satisfied. Any industry-based determination made
22 under this section by the director shall be made widely available to the
23 public and posted on the division's website.

24 5. With the exception of provisional MWBE certification, as provided
25 for in subdivision twenty-three of section three hundred ten of this
26 article, all minority and women-owned business enterprise certifications
27 shall be valid for a period of three years.

1 § 7. Section 315 of the executive law, as added by chapter 261 of the
2 laws of 1988, subdivision 3 as amended and subdivisions 4, 5, 6, and 7
3 as added by chapter 175 of the laws of 2010, is amended to read as
4 follows:

5 § 315. Responsibilities of contracting agencies. 1. Each contracting
6 agency shall be responsible for monitoring state contracts under its
7 jurisdiction, and recommending matters to the office respecting non-com-
8 pliance with the provisions of this article so that the office may take
9 such action as is appropriate to insure compliance with the provisions
10 of this article, the rules and regulations of the director issued here-
11 under and the contractual provisions required pursuant to this article.
12 All contracting agencies shall comply with the rules and regulations of
13 the office and are directed to cooperate with the office and to furnish
14 to the office such information and assistance as may be required in the
15 performance of its functions under this article.

16 2. [Each contracting agency shall provide to prospective bidders a
17 current copy of the directory of certified businesses, and a copy of the
18 regulations required pursuant to sections three hundred twelve and three
19 hundred thirteen of this article at the time bids or proposals are
20 solicited.

21 3.] Each contracting agency shall report to the director with respect
22 to activities undertaken to promote employment of minority group members
23 and women and promote and increase participation by certified businesses
24 with respect to state contracts and subcontracts. Such reports shall be
25 submitted periodically, but not less frequently than annually, as
26 required by the director, and shall include such information as is
27 necessary for the director to determine whether the contracting agency
28 and any contractor to the contracting agency have complied with the

1 purposes of this article, including, without limitation, a summary of
2 all waivers of the requirements of subdivisions six and seven of section
3 three hundred thirteen of this article allowed by the contracting agency
4 during the period covered by the report, [including a description of the
5 basis of the waiver request and the rationale for granting any such
6 waiver] any instances in which the contracting agency has deemed a
7 contractor to have committed a violation pursuant to section three
8 hundred sixteen of this article and such other information as the direc-
9 tor shall require. Each agency shall also include in such annual report
10 whether or not it has been required to prepare a remedial plan, and, if
11 so, the plan and the extent to which the agency has complied with each
12 element of the plan.

13 [4.] 3. The division of minority and women's business development
14 shall issue an annual report which: (a) summarizes the report submitted
15 by each contracting agency pursuant to subdivision [three] two of this
16 section; (b) contains such comparative or other information as the
17 director deems appropriate, including but not limited to goals compared
18 to actual participation of minority and women-owned business enterprises
19 in state contracting, to evaluate the effectiveness of the activities
20 undertaken by each such contracting agency to promote increased partic-
21 ipation by certified minority or women-owned businesses with respect to
22 state contracts and subcontracts; (c) contains a summary of all waivers
23 of the requirements of subdivisions six and seven of section three
24 hundred thirteen of this article allowed by each contracting agency
25 during the period covered by the report, [including a description of the
26 basis of the waiver request and the contracting agency's rationale for
27 granting any such waiver] and; (d) [describes any efforts to create a
28 database or other information storage and retrieval system containing

1 information relevant to contracting with minority and women-owned busi-
2 ness enterprises; and (e)] contains a summary of (i) all determinations
3 of violations of this article by a contractor or a contracting agency
4 made during the period covered by the annual report pursuant to section
5 three hundred sixteen-a of this article and (ii) the penalties or sanc-
6 tions, if any, assessed in connection with such determinations and the
7 rationale for such penalties or sanctions. Copies of the annual report
8 shall be provided to the commissioner, the governor, the comptroller,
9 the temporary president of the senate, the speaker of the assembly, the
10 minority leader of the senate, the minority leader of the assembly and
11 shall also be made widely available to the public via, among other
12 things, publication on a website maintained by the division of minority
13 and women's business development.

14 [5.] 4. Each agency shall include in its annual report to the governor
15 and legislature pursuant to section one hundred sixty-four of [the exec-
16 utive law] this chapter its annual goals for contracts with minority-
17 owned and women-owned business enterprises, the number of actual
18 contracts issued to minority-owned and women-owned business enterprises;
19 and a summary of all waivers of the requirements of subdivisions six and
20 seven of section three hundred thirteen of this article allowed by the
21 reporting agency during the preceding year, including a description of
22 the basis of the waiver request and the rationale for granting such
23 waiver. Each agency shall also include in such annual report whether or
24 not it has been required to prepare a remedial plan, and, if so, the
25 plan and the extent to which the agency has complied with each element
26 of the plan.

27 [6.] 5. Each contracting agency that substantially fails to [meet the
28 goals supported by the disparity study,] make good faith effort as

1 defined by regulation of the director, to achieve the maximum feasible
2 participation of minority and women-owned business enterprises in such
3 agency's contracting shall be required to submit to the director a reme-
4 dial action plan to remedy such failure.

5 [7.] 6. If it is determined by the director that any agency has failed
6 to act in good faith to implement the remedial action plan, pursuant to
7 subdivision [six] five of this section within one year, the director
8 shall provide written notice of such a finding, which shall be publicly
9 available, and direct implementation of remedial actions to:

10 (a) assure that sufficient and effective solicitation efforts to women
11 and minority-owned business enterprises are being made by said agency;

12 (b) divide contract requirements, when economically feasible, into
13 quantities that will expand the participation of women and minority-
14 owned business enterprises;

15 (c) eliminate extended experience or capitalization requirements, when
16 programmatically and economically feasible, that will expand partic-
17 ipation by women and minority-owned business enterprises;

18 (d) identify specific proposed contracts as particularly attractive or
19 appropriate for participation by women and minority-owned business
20 enterprises with such identification to result from and be coupled with
21 the efforts of paragraphs (a), (b), and (c) of this subdivision; and

22 (e) upon a finding by the director that an agency has failed to take
23 affirmative measures to implement the remedial plan and to follow any of
24 the remedial actions set forth by the director, and in the absence of
25 any objective progress towards the agency's goals, require some or all
26 of the agency's procurement, for a specified period of time, be placed
27 under the direction and control of another agency or agencies.

1 § 8. Section 316-a of the executive law, as added by chapter 175 of
2 the laws of 2010, is amended to read as follows:

3 § 316-a. Prohibitions in contracts; violations. Every contracting
4 agency shall include a provision in its state contracts expressly
5 providing that any contractor who willfully and intentionally fails to
6 make a good faith effort to comply with the minority and women-owned
7 participation requirements of this article as set forth in such state
8 contract shall be liable to the contracting agency for liquidated or
9 other appropriate damages and shall provide for other appropriate reme-
10 dies on account of such breach. A contracting agency that elects to
11 proceed against a contractor for breach of contract as provided in this
12 section shall be precluded from seeking enforcement pursuant to section
13 three hundred sixteen of this article; provided however, that the
14 contracting agency shall include a summary of all enforcement actions
15 undertaken pursuant to this section in its annual report submitted
16 pursuant to [subdivision three of] section three hundred fifteen of this
17 article.

18 § 9. Subdivision 6 of section 163 of the state finance law, as amended
19 by chapter 569 of the laws of 2015 is amended to read as follows:

20 6. Discretionary buying thresholds. Pursuant to guidelines established
21 by the state procurement council: the commissioner may purchase services
22 and commodities in an amount not exceeding eighty-five thousand dollars
23 without a formal competitive process; state agencies may purchase
24 services and commodities in an amount not exceeding fifty thousand
25 dollars without a formal competitive process; and state agencies may
26 purchase commodities or services from small business concerns or those
27 certified pursuant to articles fifteen-A and seventeen-B of the execu-
28 tive law, or commodities or technology that are recycled or remanufac-

1 tured, or commodities that are food, including milk and milk products,
2 grown, produced or harvested in New York state in an amount not exceed-
3 ing [two] four hundred thousand dollars without a formal competitive
4 process.

5 § 10. Subparagraph (i) of paragraph (b) of subdivision 3 of section
6 2879 of the public authorities law, as amended by chapter 174 of the
7 laws of 2010, is amended to read as follows:

8 (i) for the selection of such contractors on a competitive basis, and
9 provisions relating to the circumstances under which the board may by
10 resolution waive competition, including, notwithstanding any other
11 provision of law requiring competition, the purchase of goods or
12 services from small business concerns [or] those certified as minority
13 or women-owned business enterprises, or goods or technology that are
14 recycled or remanufactured, in an amount not to exceed [two] four
15 hundred thousand dollars without a formal competitive process;

16 § 11. Paragraph (a) of subdivision 3 of section 139-j of the state
17 finance law is amended by adding two new subparagraphs 10 and 11 are
18 added to read as follows:

19 (10) Complaints by minority-owned business enterprises or women-owned
20 business enterprises, certified as such by the division of minority and
21 women's business development, to the minority and women-owned business
22 enterprise statewide advocate concerning the procuring governmental
23 entity's failure to comply with the requirements of section three
24 hundred fifteen of the executive law;

25 (11) Communications between the minority and women-owned business
26 enterprise statewide advocate and the procuring governmental entity in
27 furtherance of an investigation of the minority and women-owned business

1 enterprise statewide advocate pursuant to section three hundred twelve-a
2 of the executive law.

3 § 12. Subdivision 6 of section 8 of the public buildings law, as
4 amended by chapter 840 of the laws of 1980, is amended to read as
5 follows:

6 6. All contracts for amounts in excess of five thousand dollars for
7 the work of construction, reconstruction, alteration, repair or improve-
8 ment of any state building, whether constructed or to be constructed
9 must be offered for public bidding and may be awarded to the lowest
10 responsible and reliable bidder, as will best promote the public inter-
11 est, by the said department or other agency with the approval of the
12 comptroller for the whole or any part of the work to be performed, and,
13 in the discretion of the said department or other agency, such contracts
14 may be sublet; provided, however, that no such contract shall be awarded
15 to a bidder other than the lowest responsible and reliable bidder,
16 except for certain contracts awarded to minority or women-owned business
17 enterprises as provided herein, without the written approval of the
18 comptroller. When a proposal consists of unit prices of items specified
19 to be performed, except for certain contracts awarded to minority or
20 women-owned business enterprises as provided herein, the lowest bid
21 shall be deemed to be that which specifically states the lowest gross
22 sum for which the entire work will be performed, including all the items
23 specified in the proposal thereof. The lowest bid shall be determined by
24 the commissioner of general services on the basis of the gross sum for
25 which the entire work will be performed, arrived at by a correct compu-
26 tation of all the items specified in the proposal therefor at the unit
27 prices contained in the bid. Provided, however, that where a responsi-
28 ble and reliable bidder certified as a minority-owned business enter-

prise or women-owned business enterprise pursuant to article fifteen-A of the executive law submits a bid of one million four hundred thousand dollars or less, as adjusted annually for inflation beginning January first, two thousand twenty, the bid of the minority or women-owned business enterprise shall be deemed the lowest bid unless it exceeds the bid of any other bidder by more than ten percent.

§ 13. The penal law is amended by adding a new article 181 to read as follows:

ARTICLE 181

MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE FRAUD

Section 181.00 Definitions.

181.10 Minority or women-owned business enterprise fraud in the third degree.

181.20 Minority or women-owned business enterprise fraud in the second degree.

181.30 Minority or women-owned business enterprise fraud in the first degree.

§ 181.00 Definitions.

1. "Minority-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

2. "State contract" shall have the same meaning as in article fifteen-A of the executive law.

3. "Women-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

§ 181.10 Minority or women-owned business enterprise fraud in the third degree.

1 A person is guilty of minority or women-owned business enterprise
2 fraud in the third degree when he or she knowingly provides materially
3 false information or omits material information concerning the use or
4 identification of a minority or women-owned business enterprise for the
5 purpose of being awarded, or demonstrating compliance with the minority
6 and women-owned business participation requirements of a state contract.

7 Minority or women-owned business enterprise fraud in the third degree
8 is a class A misdemeanor.

9 § 181.20 Minority or women-owned business enterprise fraud in the second
10 degree.

11 A person is guilty of minority or women-owned business enterprise
12 fraud in the second degree when he or she knowingly provides materially
13 false information or omits material information concerning the use or
14 identification of a minority or women-owned business enterprise for the
15 purpose of being awarded, or demonstrating compliance with the minority
16 and women-owned business participation requirements of, a state
17 contract, and the state contract is valued in excess of fifty thousand
18 dollars.

19 Minority or women-owned business enterprise fraud in the second degree
20 is a class E felony.

21 § 181.30 Minority or women-owned business enterprise fraud in the first
22 degree.

23 A person is guilty of minority or women-owned business enterprise
24 fraud in the first degree when he or she knowingly provides materially
25 false information or omits material information concerning the use or
26 identification of a minority or women-owned business enterprise for the
27 purpose of being awarded, or demonstrating compliance with the minority
28 and women-owned business enterprise participation requirements of a

1 state contract, and the state contract is valued in excess of one
2 million dollars.

3 Minority or women-owned business enterprise fraud in the first degree
4 is a class D felony.

5 § 14. The opening paragraph of subdivision (h) of section 121 of chap-
6 ter 261 of the laws of 1988, amending the state finance law and other
7 laws relating to the New York state infrastructure trust fund, as
8 amended by section 1 of part 000 of chapter 59 of the laws of 2018, is
9 amended to read as follows:

10 The provisions of sections sixty-two through sixty-six of this act
11 shall expire and be deemed repealed on December thirty-first, two thou-
12 sand [nineteen] twenty-four, except that:

13 § 15. The executive law is amended by adding a new article 28 to read
14 as follows:

15 ARTICLE 28

16 WORKFORCE DIVERSITY PROGRAM

17 Section 821. Definitions.

18 822. Workforce participation goals.

19 823. Reporting.

20 824. Enforcement.

21 825. Powers and responsibilities of the division.

22 826. Severability.

23 § 821. Definitions. As used in this article, the following terms shall
24 have the following meanings:

25 1. "Contractor" shall mean an individual, a business enterprise,
26 including a sole proprietorship, a partnership, a corporation, a not-

for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

2. "Department" shall mean the department of labor.

3. "Director" shall mean the director of the division of minority and women's business development.

4. "Disparity study" shall mean the most recent study of disparities between the utilization of minority group members and women in the performance of state contracts and the availability of minority group members and women to perform such work by the director pursuant to article fifteen-A of this chapter.

5. "Division" shall mean the department of economic development's division of minority and women's business development.

6. "List of non-compliant contractors" shall mean a list of contractors and subcontractors, maintained by the division and published on the website of the division, that are ineligible to participate as contractors or subcontractors in the performance of state contracts for a term determined by the director.

7. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America;

1 (d) Asian and Pacific Islander persons having origins in any of the
2 Far East countries, South East Asia, the Indian subcontinent or the
3 Pacific Islands.

4 8. "Non-compliant contractor" shall mean a contractor or subcontractor
5 that has failed to make a good faith effort to meet the workforce
6 participation goal established by a state agency on a state contract,
7 and has been listed by the division on its list of non-compliant
8 contractors.

9 9. "State agency" shall mean (a) (i) any state department, or (ii) any
10 division, board, commission or bureau of any state department, or (iii)
11 the state university of New York and the city university of New York,
12 including all their constituent units except community colleges and the
13 independent institutions operating statutory or contract colleges on
14 behalf of the state, or (iv) a board, a majority of whose members are
15 appointed by the governor or who serve by virtue of being state officers
16 or employees as defined in subparagraph (i), (ii) or (iii) of paragraph
17 (i) of subdivision one of section seventy-three of the public officers
18 law.

19 (b) a "state authority," as defined in subdivision one of section two
20 of the public authorities law, and the following:

21 Albany County Airport Authority;

22 Albany Port District Commission;

23 Alfred, Almond, Hornellsville Sewer Authority;

24 Battery Park City Authority;

25 Cayuga County Water and Sewer Authority;

26 (Nelson A. Rockefeller) Empire State Plaza Performing Arts Center

27 Corporation;

28 Industrial Exhibit Authority;

- 1 Livingston County Water and Sewer Authority;
- 2 Long Island Power Authority;
- 3 Long Island Rail Road;
- 4 Long Island Market Authority;
- 5 Manhattan and Bronx Surface Transit Operating Authority;
- 6 Metro-North Commuter Railroad;
- 7 Metropolitan Suburban Bus Authority;
- 8 Metropolitan Transportation Authority;
- 9 Natural Heritage Trust;
- 10 New York City Transit Authority;
- 11 New York Convention Center Operating Corporation;
- 12 New York State Bridge Authority;
- 13 New York State Olympic Regional Development Authority;
- 14 New York State Thruway Authority;
- 15 Niagara Falls Public Water Authority;
- 16 Niagara Falls Water Board;
- 17 Port of Oswego Authority;
- 18 Power Authority of the State of New York;
- 19 Roosevelt Island Operating Corporation;
- 20 Schenectady Metroplex Development Authority;
- 21 State Insurance Fund;
- 22 Staten Island Rapid Transit Operating Authority;
- 23 State University Construction Fund;
- 24 Syracuse Regional Airport Authority;
- 25 Triborough Bridge and Tunnel Authority;
- 26 Upper Mohawk Valley Regional Water Board;
- 27 Upper Mohawk Valley Regional Water Finance Authority;
- 28 Upper Mohawk Valley Memorial Auditorium Authority;

1 Urban Development Corporation and its subsidiary corporations.

2 (c) the following only to the extent of state contracts entered into
3 for its own account or for the benefit of a state agency as defined in
4 paragraph (a) or (b) of this subdivision:

5 Dormitory Authority of the State of New York;

6 Facilities Development Corporation;

7 New York State Energy Research and Development Authority;

8 New York State Science and Technology Foundation.

9 10. "State contract" shall mean: (a) a written agreement or purchase
10 order instrument, providing for a total expenditure in excess of fifty
11 thousand dollars, whereby a state agency is committed to expend or does
12 expend or grant funds in return for labor, services including but not
13 limited to legal, financial and other professional services, supplies,
14 equipment, materials or any combination of the foregoing, to be
15 performed on behalf of, for, or rendered or furnished to the state agen-
16 cy; (b) a written agreement in excess of one hundred thousand dollars
17 whereby a state agency is committed to expend or does expend or grant
18 funds for the acquisition, construction, demolition, replacement, major
19 repair or renovation of real property and improvements thereon; and (c)
20 a written agreement in excess of one hundred thousand dollars whereby
21 the owner of a state assisted housing project is committed to expend or
22 does expend funds for the acquisition, construction, demolition,
23 replacement, major repair or renovation of real property and improve-
24 ments thereon for such project.

25 11. "Subcontractor" shall mean any individual or business enterprise
26 that provides goods or services to any individual or business for use in
27 the performance of a state contract, whether or not such goods or
28 services are provided to a party to a state contract.

1 § 822. Workforce participation goals. 1. The director, in consulta-
2 tion with the department, shall develop aspirational goals for the
3 utilization of minority group members and women in any trade, profes-
4 sion, occupation, or categories thereof.

5 (a) Aspirational goals for the utilization of minority group members
6 and women must set forth the expected participation of minority group
7 members and women in each trade, profession, and occupation, or catego-
8 ries thereof and shall be expressed as a percentage of the total hours
9 of work to be performed by each trade, profession, and occupation based
10 on the availability of minority group members and women within each
11 trade, profession, and occupation or categories thereof.

12 (i) The aspirational goals shall set forth separate levels of expected
13 participation by men and women for each minority group, and for Cauca-
14 sian women, in each trade, profession, and occupation of categories
15 thereof.

16 (ii) Aspirational goals for the expected participation of minority
17 group members and women shall be established for each county of the
18 state. The director may establish aspirational goals for the expected
19 participation of minority group members and women for municipalities
20 where the director deems feasible and appropriate.

21 (iii) The director shall, in establishing the aspirational goals,
22 consider the findings of the most recent disparity study and any rele-
23 vant data published by the United States Census Bureau.

24 (b) The director shall update the aspirational goals on a periodic
25 basis, no less than biannually.

26 2. State agencies shall, for each invitation for bids, request for
27 proposals, or other solicitation that will result in the award of a

1 state contract, set forth the expected degree of workforce participation
2 by minority group members and women.

3 (a) Each workforce participation goal established by a state agency
4 shall set forth the expected level of participation by minority group
5 members and women in the performance of each trade, profession, and
6 occupation required in the performance of the contract.

7 (b) Goals for the participation of minority group members and women
8 shall set forth separate goals for each of the following groups in each
9 trade, profession, and occupation or categories thereof:

10 (i) Black men;

11 (ii) Black women;

12 (iii) Hispanic men;

13 (iv) Hispanic women;

14 (v) Native American men;

15 (vi) Native American women;

16 (vii) Asian men;

17 (viii) Asian women;

18 (ix) Caucasian women.

19 (c) In establishing workforce participation goals, state agencies
20 shall consider factors including, but not limited to:

21 (i) the findings of the disparity study;

22 (ii) any relevant data published by the United States Census Bureau;
23 and

24 (iii) if applicable, any aspirational goal established by the divi-
25 sion.

26 (d) In any case where a state agency establishes a workforce partic-
27 ipation goal on an invitation for bids, request for proposals, or other
28 solicitation that will result in the award of a state contract that

1 deviates from the aspirational goal for work or service in the county or
2 municipality in which the work or service will be performed, the state
3 agency shall document numerical evidence demonstrating that the applica-
4 tion of the aspirational goal would not be practical, feasible, or
5 appropriate.

6 3. Every contractor responding to an invitation for bids, request for
7 proposals, or other solicitation that will result in the award of a
8 state contract subject to workforce participation goals pursuant to this
9 section shall agree to make a good faith effort to achieve such work-
10 force participation goal or request a waiver of such goal.

11 (a) A contractor that certifies that it will make a good faith effort
12 to achieve a workforce participation goal shall provide with its
13 response to the applicable invitation for bids, request for proposals,
14 or other solicitation:

15 (i) A certification stating that the contractor will make a good faith
16 effort to achieve the applicable workforce participation goal and will
17 contractually require any subcontractors to the contractor to make a
18 good faith effort to achieve the applicable workforce participation goal
19 in any subcontracted work, which certification shall acknowledge that
20 failure by the contractor or any of its subcontractors to make a good
21 faith effort to achieve the applicable workforce participation goal may
22 result in a determination by the contracting state agency that the
23 contractor or its subcontractor is a non-compliant contractor;

24 (ii) The level of anticipated participation by minority group members
25 and women as employees to the contractor, or, if the state agency has
26 specifically indicated that such documentation is not required as part
27 of the response to the invitation for bids, request for proposals, or

1 other solicitation, a date certain for the submission of such documenta-
2 tion after the award of the state contract;

3 (iii) A list of all subcontractors anticipated to perform work on the
4 state contract and the level of anticipated participation by minority
5 group members and women as employees to each subcontractor, or, if the
6 state agency has specifically indicated that such documentation is not
7 required as part of the response to the invitation for bids, request for
8 proposals, or other solicitation, a date certain for the submission of
9 such documentation after the award of the state contract; and

10 (iv) Such other information as the contracting state agency shall
11 require.

12 (b) A contractor that requests a waiver of a workforce participation
13 goal shall provide with its response to the applicable invitation for
14 bids, request for proposals, or other solicitation:

15 (i) Numerical evidence setting forth why the achievement of the work-
16 force participation goal is not practical, feasible, or appropriate in
17 light of the trades, professions, and occupations required to perform
18 the work of the state contract;

19 (ii) Documentation of the contractor's efforts, and any efforts by
20 subcontractors to the contractor, to promote the inclusion of minority
21 group members and women in trades, professions, and occupations required
22 in the performance of the state contract;

23 (iii) The maximum feasible level of participation by minority group
24 members and women in each of the trades, professions, and occupations
25 required in the performance of the work of the state contract;

26 (iv) The level of anticipated participation by minority group members
27 and women as employees to the contractor;

1 (v) A list of all subcontractors anticipated to perform work on the
2 state contract and the level of anticipated participation by minority
3 group members and women as employees to each subcontractor; and

4 (vi) Any other relevant information evidencing that the contractor's
5 achievement of the workforce participation goal would not be practical,
6 feasible, or appropriate.

7 4. A state agency shall not award a state contract to a contractor
8 unless the contractor has (i) certified that it will make a good faith
9 effort to achieve the applicable workforce participation goal and
10 provided documentation of the workforce anticipated to perform the work
11 of the state contract or (ii) submitted a waiver request which the state
12 agency deems to reflect the maximum feasible participation of minority
13 group members and women in each of the trades, professions, and occupa-
14 tions required in performance of the work of the state contract.

15 (a) In the event that a contractor submits a certification or waiver
16 request that is accepted by the state agency, the state agency shall
17 establish in the state contract the expected level of participation by
18 minority group members and women in each of the trades, professions, and
19 occupations required in performance of the work of the state contract,
20 require that the contractor make good faith efforts to achieve such
21 workforce participation goals, require that the contractor require any
22 subcontractors to make a good faith effort to achieve the applicable
23 workforce participation goal in any subcontracted work, and indicate
24 that the failure of the contractor or any of its subcontractors to make
25 a good faith effort to achieve the workforce participation goal may
26 result in the contractor or subcontractor being deemed a non-compliant
27 contractor.

1 (b) In the event that a contractor fails to submit a certification,
2 waiver request, or any other information required by the state agency,
3 or the state agency determines that a contractor's waiver request does
4 not demonstrate that the applicable workforce participation goal is
5 impractical, unfeasible, or inappropriate, the state agency shall notify
6 the contractor of the deficiency in writing and provide the contractor
7 five business days to remedy the noticed deficiency. A state agency
8 shall reject any bid or proposal of a contractor that fails to timely
9 respond to a notice of deficiency or to provide documentation remedying
10 the deficiency to the satisfaction of the state agency.

11 (i) Where failure to remedy any notified deficiency in the workforce
12 utilization plan is a ground for disqualification, that issue and all
13 other grounds for disqualification shall be stated in writing by the
14 contracting state agency. The contractor shall be entitled to an admin-
15 istrative hearing, on the record, involving all grounds stated by the
16 contracting state agency in its notice of the contractor's disqualifica-
17 tion. Such hearing shall be conducted by the appropriate authority of
18 the contracting agency to review the determination of disqualification.
19 A final administrative determination made following such hearing shall
20 be reviewable in a proceeding commenced under article seventy-eight of
21 the civil practice law and rules, provided that such proceeding is
22 commenced within thirty days of the notice given by certified mail
23 return receipt requested rendering such final administrative determi-
24 nation. Such proceeding shall be commenced in the supreme court, appel-
25 late division, third department and such proceeding shall be preferred
26 over all other civil causes except election causes, and shall be heard
27 and determined in preference to all other civil business pending there-
28 in, except election matters, irrespective of position on the calendar.

1 Appeals taken to the court of appeals of the state of New York shall be
2 subject to the same preference.

3 § 823. Reporting. 1. State contracts shall require contractors to
4 submit, and to require any subcontractors to submit, to the contracting
5 state agency reports documenting the hours worked by employees of the
6 contractor and any subcontractors in the performance of the work of the
7 state contract. Such reports shall be submitted no less frequently than
8 monthly for state contracts for construction and quarterly for all other
9 state contracts. Such reports shall identify the race, ethnicity,
10 gender, and trade, profession, or occupation of each employee performing
11 work on a state contract.

12 2. State agencies shall submit periodic reports to the director, or
13 the designee of the director, concerning the participation of minority
14 group members and women in state contracts let by such agencies and such
15 state agencies' compliance with this article. Such reports shall be
16 submitted at such time, and include such information, as the director
17 shall require in regulations. State agencies shall make available their
18 facilities, books, and records for inspection, upon reasonable notice,
19 by the director or the director's designee.

20 3. The department shall provide such assistance as the director shall
21 require in carrying out the requirements of this section.

22 § 824. Enforcement. 1. Where it appears that a contractor cannot,
23 after a good faith effort, meet the workforce participation goals set
24 forth in a particular state contract, a contractor may file a written
25 application with the contracting state agency requesting a partial or
26 total waiver of such requirements. Such request shall set forth the
27 reasons for such contractor's inability to meet the workforce partic-
28 ipation goal, specifically describe the reasons for any deviations from

1 the anticipated workforce participation goal set forth in the contrac-
2 tor's bid or proposal leading to the award of the state contract, and
3 describe the efforts by the contractor and any subcontractors to achieve
4 the maximum feasible participation of minority group members and women
5 in the performance of the work of the state contract. Where the contrac-
6 tor's inability to achieve the workforce participation goal on a state
7 contract is attributable to the failure of one or more subcontractors to
8 make good faith efforts to achieve the maximum feasible participation of
9 minority group members and women in the performance of the work of the
10 state contract, the contractor shall identify such subcontractor or
11 subcontractors to the contracting state agency.

12 2. A state agency shall grant a request for a waiver of workforce
13 participation goals on a state contract where:

14 (a) The contractor demonstrates that the contractor and its subcon-
15 tractors made good faith efforts to achieve the workforce participation
16 goal on the state contract, and that insufficient minority group members
17 or women were available in the trades, professions, and occupations
18 required to perform the work of the state contract; or

19 (b) The contractor contractually required each of its subcontractors
20 to make a good faith effort to achieve the maximum feasible partic-
21 ipation of minority group members and women in the performance of the
22 subcontracted work, periodically monitored such subcontractors' deploy-
23 ment of minority group members and women in the performance of the
24 subcontracted work, provided notice to such subcontractors of any defi-
25 ciencies in their deployment of minority group members and women in the
26 performance of such subcontracted work, and could not achieve the work-
27 force participation goal for one or more trades, professions, or occupa-
28 tions without the good faith efforts of such subcontractors.

1 3. Where a state agency denies a contractor's request for a waiver of
2 workforce participation goals pursuant to this section, the state agency
3 shall recommend to the director and the department that the contractor
4 be deemed a non-compliant contractor.

5 4. Where a state agency grants a request for a waiver of workforce
6 participation goals pursuant to this section based on one or more
7 subcontractors' failure to make good faith efforts to achieve the maxi-
8 mum feasible participation of minority group members and women in the
9 performance of the subcontracted work, the state agency shall recommend
10 to the director and the department that the subcontractor be deemed a
11 non-compliant contractor.

12 5. Upon receipt of a recommendation from a state agency that a
13 contractor or subcontractor should be deemed a non-compliant contractor,
14 the director shall, with the assistance of the department, review the
15 facts and circumstances forming the basis of the recommendation and
16 issue a determination as to whether or not the contractor or subcontrac-
17 tor should be deemed a non-compliant contractor and, if so, the duration
18 of such status as a non-compliant contractor. In determining the dura-
19 tion of a contractor's or subcontractor's status as a non-compliant
20 contractor, the director shall consider:

21 (i) whether the contractor or subcontractor has previously been deemed
22 a non-compliant contractor;

23 (ii) the number of hours of expected participation by minority group
24 members and women lost as a result of the contractor's or subcontrac-
25 tor's failure to make good faith efforts to include minority group
26 members or women in the performance of one or more state contracts; and

27 (iii) whether the contractor or subcontractor has offered to provide
28 employment opportunities, training, or other remedial benefits to minor-

1 ity group members or women in relevant trades, professions, or occupa-
2 tions.

3 6. A contractor or subcontractor deemed a non-compliant contractor by
4 the director may request an administrative hearing before an independent
5 hearing officer to appeal the determination of the director. The deci-
6 sion of the hearing officer shall be final and may only be vacated or
7 modified as provided in article seventy-eight of the civil practice law
8 and rules upon an application made within the time provided by such
9 article.

10 7. Upon a final determination that a contractor or subcontractor is a
11 non-compliant contractor, the director shall list the contractor or
12 subcontractor as such on its website and indicate the term of such
13 contractor's or subcontractor's status as a non-compliant contractor. A
14 non-compliant contractor shall be ineligible to participate as a
15 contractor or subcontractor on any state contract.

16 § 825. Powers and responsibilities of the division. 1. The director
17 shall post to the website of the division on or before October first of
18 each year the aspirational goals for the utilization of minority group
19 members and women in certain trades, professions and/or occupations as
20 required pursuant to section eight hundred twenty-two of this article.

21 2. The director shall promulgate rules and regulations for the imple-
22 mentation of this article, including, but not limited to, procedures for
23 the submission of certifications and workforce utilization plans by
24 contractors, criteria for granting waivers of workforce participation
25 goals, and the contents of reports by state agencies concerning their
26 implementation of the requirements of this article.

27 3. The division shall, from time to time, review the facilities,
28 books, and records of state agencies to ascertain the accuracy of their

1 reports and their compliance with the requirements of this article. The
2 department shall provide such assistance as the director shall require
3 in carrying out the requirements of this section.

4 § 826. Severability. If any clause, sentence, paragraph, section or
5 part of this article shall be adjudged by any court of competent juris-
6 diction to be invalid, the judgment shall not affect, impair or invali-
7 date the remainder thereof, but shall be confined in its operation to
8 the clause, sentence, paragraph, section or part of this article direct-
9 ly involved in the controversy in which the judgment shall have been
10 rendered.

11 § 16. This act shall take effect immediately, and shall be deemed to
12 have been in full force and effect on and after April 1, 2019; provided,
13 however, that:

14 (a) the amendments to article 15-A of the executive law, made by
15 sections one, two, three, four, five, six, seven and eight of this act,
16 shall not affect the expiration of such article and shall expire and be
17 deemed expired therewith;

18 (b) the amendments to section 163 of the state finance law, made by
19 section nine of this act, shall not affect the expiration and repeal of
20 such section, and shall expire and be deemed repealed therewith;

21 (c) the amendments to section 139-j of the state finance law, made by
22 section eleven of this act, shall not affect the expiration and repeal
23 of such section, and shall expire and be deemed repealed therewith;

24 (d) subdivision 2-b of section 314 of the executive law shall take
25 effect on the same date and in the same manner as section 1 of chapter
26 409 of the laws of 2018 takes effect; and

27 (e) section fifteen of this act shall expire and be deemed repealed
28 December 31, 2024.

1 PART BB

2 Section 1. The vehicle and traffic law is amended by adding a new
3 article 44-C to read as follows:

4 ARTICLE 44-C

5 CONGESTION TOLLING PROGRAM

6 Section 1701. Legislative findings and declaration.

7 1702. Short title.

8 1703. Definitions.

9 1704. Establishment of congestion tolling program.

10 1704-a. Congestion toll.

11 1705. Disposition of revenue and penalties.

12 1706. Reporting.

13 § 1701. Legislative findings and declaration. The ongoing failures of
14 the tracks, signals, switches and other transportation infrastructure
15 throughout the subway system in the city of New York continue to pose an
16 imminent threat and have a vast and deleterious impact on the health,
17 safety, and livelihood of commuters, tourists, resident New Yorkers, as
18 well as business and commerce in the metropolitan commuter transporta-
19 tion district, which is the recognized economic engine of the state of
20 New York, and thereby have adversely affected the economy of the state
21 of New York. Temporary actions have been taken to address the safety of
22 subway riders short term including an emergency declaration and
23 increased capital funding for the subways in the most recently adopted
24 state budget. The legislature, however, determines that a long-term and
25 sustainable solution is necessary in order to ensure stable and reliable
26 funding to repair and revitalize this significantly important mass tran-
27 sit asset.

1 The legislature further finds and declares that traffic congestion in
2 the city of New York ranks second worst among cities in the United
3 States and third worst among cities in the world, and results in signif-
4 icant cost to the New York metropolitan area economy and in turn the
5 state's economy at estimates exceeding one hundred million dollars over
6 the next five years. Travel speeds in the city of New York's central
7 business district have dropped more than seventeen percent in two thou-
8 sand sixteen to an average of 6.8 miles per hour and in Midtown Manhat-
9 tan, the most congested area of the city-the area from fifty-ninth
10 street to thirty-fifth street and from ninth avenue to the east river-
11 the average vehicular speed is 4.7 miles per hour. Congestion in these
12 areas is crippling and impacts the everyday lives of residents, commu-
13 ters, taxi and for-hire vehicle traffic, bus transit and emergency
14 services.

15 These issues have been recognized by both the Fix NYC Advisory Panel
16 and the MTA Sustainability Advisory Workgroup as significant impediments
17 to everyday New Yorkers.

18 In order to ensure a safe and efficient mass transit system within the
19 city of New York and to protect the public health and safety of New
20 York's residents, a program to establish fees for vehicles entering or
21 remaining in the most congested area of the state is found to be neces-
22 sary and to be a matter of substantial state concern.

23 § 1702. Short title. This act shall be known as and may be cited as
24 "the congestion tolling program".

25 § 1703. Definitions. For the purposes of this article, unless the
26 context otherwise requires:

27 1. "City" means the city of New York.

1 2. "Congestion toll" means a toll charged for entry into or remaining
2 in the congestion tolling zone as described in section seventeen hundred
3 four of this article.

4 3. "Congestion tolling program" means the program for charging tolls
5 for vehicles that enter or remain in the congestion tolling zone and
6 includes the congestion tolling infrastructure, the congestion tolling
7 collection system and the congestion tolling customer service center.

8 4. "Congestion tolling zone" means the area described in section
9 seventeen hundred four of this article for which tolls shall be charged
10 for a vehicle's entry into such zone.

11 5. "Congestion tolling infrastructure" means the devices and struc-
12 tures including but not limited to gantries and power and communication
13 lines that the Triborough bridge and tunnel authority will plan, design
14 and construct as part of the congestion tolling program.

15 6. "Congestion tolling collection system" means the electronic system
16 of collecting tolls or other charges using electronic data and/or images
17 that the Triborough bridge and tunnel authority will plan, design,
18 install and operate as part of the congestion tolling program.

19 7. "Congestion tolling customer service center" means the customer
20 contact and back-office system and operation services for the collection
21 of congestion tolls and enforcement of congestion toll violations that
22 the Triborough bridge and tunnel authority will plan, design, implement
23 and operate as part of the congestion tolling program.

24 8. "Operation date" means the date determined by the metropolitan
25 transportation authority and the Triborough bridge and tunnel authority,
26 which shall not be earlier than December thirty-first, two thousand
27 twenty, for the beginning of the operation and enforcement of the
28 congestion tolling program.

1 9. "Triborough bridge and tunnel authority" means the corporation
2 organized pursuant to section five hundred fifty-two of the public
3 authorities law as consolidated pursuant to section five hundred fifty-
4 two-a of the public authorities law or any successor corporation or
5 corporation into which it may be consolidated.

6 § 1704. Establishment of congestion tolling program. 1. The metropol-
7 itan transportation authority shall establish the congestion tolling
8 program.

9 2. The congestion tolling program will operate in the congestion toll-
10 ing zone. The congestion tolling zone shall include any roadways, bridg-
11 es, tunnels, approaches or ramps that are located within, or enter into,
12 the geographic area in the borough of Manhattan south of and inclusive
13 of sixtieth street to the extent practicable but shall not include the
14 FDR Drive.

15 3. (a) The Triborough bridge and tunnel authority shall plan, design
16 and construct the congestion tolling infrastructure at points of vehicle
17 ingress to the congestion toll zone. The Triborough bridge and tunnel
18 authority may occupy the sidewalks, roadways, streets, highways, bridg-
19 es, tunnels, approaches or highways of the city of New York for the
20 purpose of doing any work over or under the same in connection with
21 installing, operating or maintaining the congestion tolling infrastruc-
22 ture without the consent of or payment to the city of New York. The city
23 of New York shall cooperate fully with the Triborough bridge and tunnel
24 authority in the planning, designing and constructing of the congestion
25 tolling infrastructure and shall not require that the Triborough bridge
26 and tunnel authority or any of its contractors to seek or obtain from
27 the city of New York any sidewalk or roadway construction activity

1 permit, license, or other approval in connection with installing, oper-
2 ating or maintaining the congestion tolling infrastructure.

3 (b) The Triborough bridge and tunnel authority shall plan, design,
4 install, implement and operate a congestion toll collection system to
5 collect the congestion toll.

6 (c) The Triborough bridge and tunnel authority shall plan, design,
7 implement and operate a congestion toll customer service center.

8 (d) The congestion tolling collection system shall be planned,
9 designed, implemented and operated to facilitate payment of congestion
10 tolls by various methods including but not limited to cash, credit or
11 debit card, check or automated clearing house payment, by telephone or
12 over the internet or any other method of payment that the Triborough
13 bridge or tunnel authority may implement.

14 (e) All procurements of goods, services or construction of any kind by
15 the Triborough bridge and tunnel authority for the congestion tolling
16 program shall be deemed to be subject only to the same requirements that
17 otherwise apply to procurements by the Triborough bridge and tunnel
18 authority.

19 4. The congestion tolling infrastructure, the congestion toll
20 collection system and the congestion tolling customer service center
21 shall be completed by the operation date.

22 5. Responsibility for maintenance of the congestion tolling infras-
23 tructure after the operation date shall be performed by the Triborough
24 bridge and tunnel authority.

25 6. The planning, designing, constructing, installing or maintaining of
26 the congestion tolling program and the planning, designing, installing,
27 operating or maintaining of the congestion toll collection system by the
28 Triborough bridge and tunnel authority including the establishment by

1 such authority of congestion tolls, and any other fees or rentals for
2 the use of its projects and any changes thereafter shall not be subject
3 to the provisions of article eight of the environmental conservation
4 law, the provisions of chapter six of article forty-three or chapter
5 five of title sixty-two of the rules of the city of New York, or the
6 provisions of section one hundred ninety-seven-c of the New York city
7 charter, relating to a uniform land use review procedure, nor the
8 provisions of any other local law of the city of New York of like or
9 similar effect including approvals or charges associated with the use of
10 property owned and maintained by the city of New York necessary for the
11 installation of congestion tolling infrastructure.

12 § 1704-a. Congestion toll. 1. The Triborough bridge and tunnel author-
13 ity shall have the power, subject to agreements with its bondholders, to
14 charge tolls and fees for vehicles entering or remaining in the
15 congestion tolling zone at any time and shall have the power, subject to
16 agreements with bondholders, to make rules and regulations for the
17 collection of congestion tolls and the establishment of fees. For
18 purposes of establishing a congestion tolling program, the Triborough
19 bridge and tunnel authority shall, at minimum, ensure that annual reven-
20 ues and fees collected under such program, less costs of operation of
21 the same, provide for revenues into the congestion tolling fund, estab-
22 lished pursuant to section twelve hundred seventy-j of the public
23 authorities law, necessary to fund fifteen billion dollars for capital
24 projects.

25 2. No owner of a for-hire vehicle that is subject to a surcharge
26 imposed by article twenty-nine-C of the tax law for a for-hire transpor-
27 tation trip shall also be charged a congestion toll if it enters or
28 remains in the congestion toll zone as part of such trip.

1 3. No owner of an emergency vehicle as defined pursuant to section one
2 hundred one of this chapter shall be charged a congestion toll if it
3 enters or remains in the congestion tolling zone.

4 4. Any vehicle entering the congestion tolling zone using a vehicular
5 crossing known as the Queens Midtown Tunnel, the Hugh Carey Tunnel, the
6 Holland Tunnel, the Lincoln Tunnel, or the Henry Hudson Bridge shall be
7 credited an amount equal to the toll charged to such vehicle for the use
8 of such crossing immediately prior to entry into such zone from the
9 amount of the congestion toll charged to such vehicle for purposes of
10 entering the congestion tolling zone.

11 § 1705. Disposition of revenue and penalties. The Triborough bridge
12 and tunnel authority shall establish and collect congestion tolls and
13 fees and other charges as provided in subdivision twelve-a of section
14 five hundred fifty-three of the public authorities law.

15 § 1706. Reporting. Beginning one year after the operation date and
16 every two years thereafter, the Triborough bridge and tunnel authority
17 and the metropolitan transportation authority shall report on the effect
18 of the congestion tolling program on congestion in the congestion zone
19 and on mass transit use including the vehicle-miles traveled for each
20 trip within the congestion tolling zone for taxis and for-hire vehicles;
21 the volume and type of vehicles entering the congestion tolling zone;
22 and transit ridership and average bus speeds within the congestion toll-
23 ing zone, and on all receipts and expenditures relating to the
24 congestion tolling program. The department of transportation of the city
25 of New York shall be required to assist in gathering and providing to
26 the Triborough bridge and tunnel authority congestion data and other
27 related data as directed by the Triborough bridge and tunnel authority
28 for purposes of compiling such report. The report shall be readily

1 available to the public, and shall be posted on the authority's website
2 and be submitted to the governor, the director of the budget, the tempo-
3 rary president of the senate, the speaker of the assembly, the mayor and
4 council speaker of the city of New York, and the metropolitan transpor-
5 tation authority capital program review board.

6 § 2. Subdivision 1 of section 402 of the vehicle and traffic law is
7 amended by adding a new paragraph (c) to read as follows:

8 (c) It shall be unlawful for any person to operate, drive or park a
9 motor vehicle on a toll highway, bridge and/or tunnel facility or enter
10 a congestion tolling zone, under the jurisdiction of the tolling author-
11 ity, if such number plate is not easily readable, nor shall any number
12 plate be covered by glass or any plastic material, and shall not be
13 knowingly covered or coated with any artificial or synthetic material or
14 substance that conceals or obscures such number plates or that distorts
15 a recorded or photographic image of such number plates, and the view of
16 such number plates shall not be obstructed by any part of the vehicle or
17 by anything carried thereon, except for a receiver-transmitter issued by
18 a publicly owned tolling facility in connection with electronic toll
19 collection when such receiver-transmitter is affixed to the exterior of
20 a vehicle in accordance with mounting instructions provided by the toll-
21 ing facility. For purposes of this paragraph, "tolling authority" shall
22 mean every public authority which operates a toll highway, bridge and/or
23 tunnel facility or which charges and collects congestion tolls as well
24 as the port authority of New York and New Jersey, a bi-state agency
25 created by compact set forth in chapter one hundred fifty-four of the
26 laws of nineteen hundred twenty-one, as amended.

1 § 3. Subdivision 8 of section 402 of the vehicle and traffic law, as
2 amended by chapter 61 of the laws of 1989 and as renumbered by chapter
3 648 of the laws of 2006, is amended to read as follows:

4 8. The violation of this section shall be punishable by a fine of not
5 less than twenty-five nor more than two hundred dollars except for
6 violations of paragraph (c) of subdivision one of this section which
7 shall be punishable by a fine of not less than one hundred nor more than
8 five hundred dollars.

9 § 4. Subdivision 4 of section 1630 of the vehicle and traffic law is
10 amended to read as follows:

11 4. Charging of tolls, taxes, fees, licenses or permits for the use of
12 the highway or any of its parts or entry into or remaining within the
13 congestion tolling zone established by article forty-four-C of this
14 chapter, where the imposition thereof is authorized by law.

15 § 5. Subdivision 9 of section 553 of the public authorities law is
16 amended by adding a new paragraph (s) to read as follows:

17 (s) The congestion tolling program to the extent specified in article
18 forty-four-C of the vehicle and traffic law and in this title, and as
19 directed by the metropolitan transportation authority.

20 § 6. Section 553 of the public authorities law is amended by adding a
21 new subdivision 12-a to read as follows:

22 12-a. To charge tolls and fees for vehicles entering or remaining
23 within the congestion tolling zone and to make rules and regulations for
24 the collection of such tolls and fees, subject to and in accordance with
25 such agreement with bondholders as may be made as hereinafter provided.
26 Subject to contracts with bondholders, all tolls, fees and other reven-
27 ues derived from the congestion tolling program shall be applied to the
28 payment of operating, administration, and other necessary expenses of

1 the authority properly allocable to such program and thereafter to the
2 payment of interest or principal of bonds for such program and if not so
3 used all remaining congestion tolling funds shall be transferred to the
4 metropolitan transportation authority and deposited into the fund estab-
5 lished by section twelve hundred seventy-j of this chapter and shall not
6 be subject to distribution under section five hundred sixty-nine-c or
7 section twelve hundred nineteen-a of this chapter.

8 § 7. The public authorities law is amended by adding a new section
9 1270-j to read as follows:

10 § 1270-j. Congestion tolling fund. 1. The authority shall establish a
11 fund to be known as the congestion tolling fund which shall be kept
12 separate from and shall not be commingled with any other moneys of the
13 authority. The fund shall consist of all moneys transferred to the
14 authority by the Triborough bridge and tunnel authority pursuant to
15 article forty-four-C of the vehicle and traffic law and subdivision
16 twelve-a of section five hundred fifty-three of this chapter.

17 2. Moneys in the fund may be pledged by the authority to secure bonds,
18 notes or other obligations of the authority and related reserves, fees,
19 costs and expenses, for any metropolitan transportation authority capi-
20 tal projects included within the 2020 to 2024 MTA capital program or any
21 successor programs. Subject to the provisions of any such pledge, or in
22 the event there is no such pledge, any moneys in the congestion tolling
23 fund may be used by the authority for payment of capital costs, includ-
24 ing debt service and reserve requirements, if any, for any metropolitan
25 transportation authority capital projects included within the 2020 to
26 2024 MTA capital program or any successor programs. Such revenues shall
27 only supplement and shall not supplant any federal, state, or local

1 funds expended by the metropolitan transportation authority, such
2 authority's affiliates or subsidiaries for such respective purposes.

3 3. The authority shall report annually on all receipts and expendi-
4 tures of the fund. The report shall detail operating expenses of the
5 congestion tolling program and all fund expenditures including capital
6 projects. The report shall be readily available to the public, and shall
7 be posted on the authority's website and be submitted to the governor,
8 the temporary president of the senate, the speaker of the assembly, the
9 mayor and council of the city of New York, and the metropolitan trans-
10 portation authority capital program review board.

11 § 8. Subdivision 3 of section 165.15 of the penal law is amended to
12 read as follows:

13 3. With intent to obtain railroad, subway, bus, air, taxi or any other
14 public transportation service or use of any highway, parkway, road,
15 bridge or tunnel or enter a congestion tolling zone without payment of
16 the lawful charge or toll therefor, or to avoid payment of the lawful
17 charge or toll for such transportation service which has been rendered
18 to him or for such use of any highway, parkway, road, bridge or tunnel
19 or entry into a congestion tolling zone, he obtains or attempts to
20 obtain such service, use or entry or avoids or attempts to avoid payment
21 therefor by force, intimidation, stealth, deception or mechanical
22 tampering, or by unjustifiable failure or refusal to pay; or

23 § 9. Subdivision 2 of section 87 of the public officers law is amended
24 by adding a new paragraph (p) to read as follows:

25 (p) are data or images produced by an electronic toll collection
26 system under authority of article forty-four-C of the vehicle and traf-
27 fic law and in title three of article three of the public authorities
28 law.

1 § 10. Severability clause. If any clause, sentence, paragraph, subdi-
2 vision, section or part of this act shall be adjudged by a court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provision had not been included herein.

10 § 11. This act shall take effect immediately.

11

PART CC

12 Section 1. Paragraph 1 of subdivision (a) of section 1180-b of the
13 vehicle and traffic law, as amended by chapter 43 of the laws of 2014,
14 is amended to read as follows:

15 1. Notwithstanding any other provision of law, the city of New York is
16 hereby authorized to establish a demonstration program imposing monetary
17 liability on the owner of a vehicle for failure of an operator thereof
18 to comply with posted maximum speed limits in a school speed zone within
19 [the] such city (i) when a school speed limit is in effect as provided
20 in paragraphs one and two of subdivision (c) of section eleven hundred
21 eighty of this article or (ii) when other speed limits are in effect as
22 provided in subdivision (b), (d), (f) or (g) of section eleven hundred
23 eighty of this article during the following times: (A) on school days
24 during school hours and one hour before and one hour after the school
25 day, and (B) a period during student activities at the school and up to

1 thirty minutes immediately before and up to thirty minutes immediately
2 after such student activities. Such demonstration program shall empower
3 the city of New York to install photo speed violation monitoring systems
4 within no more than [one hundred forty] two hundred ninety school speed
5 zones within [the] such city at any one time and to operate such systems
6 within such zones (iii) when a school speed limit is in effect as
7 provided in paragraphs one and two of subdivision (c) of section eleven
8 hundred eighty of this article or (iv) when other speed limits are in
9 effect as provided in subdivision (b), (d), (f) or (g) of section eleven
10 hundred eighty of this article during the following times: (A) on school
11 days during school hours and one hour before and one hour after the
12 school day, and (B) a period during student activities at the school and
13 up to thirty minutes immediately before and up to thirty minutes imme-
14 diately after such student activities. In selecting a school speed zone
15 in which to install and operate a photo speed violation monitoring
16 system, the city of New York shall consider criteria including, but not
17 limited to the speed data, crash history, and the roadway geometry
18 applicable to such school speed zone. Such city shall prioritize the
19 placement of photo speed violation monitoring systems in school speed
20 zones based upon speed data or the crash history of a school speed zone.
21 A photo speed violation monitoring system shall not be installed or
22 operated on a controlled-access highway exit ramp or within three
23 hundred feet along a highway that continues from the end of a cont-
24 rolled-access highway exit ramp.

25 § 2. Paragraph 2 of subdivision (a) of section 1180-b of the vehicle
26 and traffic law, as added by chapter 189 of the laws of 2013, is amended
27 to read as follows:

1 2. No photo speed violation monitoring system shall be used in a
2 school speed zone unless (i) on the day it is to be used it has success-
3 fully passed a self-test of its functions; and (ii) it has undergone an
4 annual calibration check performed pursuant to paragraph four of this
5 subdivision. The city [may] shall install signs giving notice that a
6 photo speed violation monitoring system is in use to be mounted on
7 advance warning signs notifying approaching motor vehicle operators of
8 such upcoming school speed zone and/or on speed limit signs applicable
9 within such school speed zone, in conformance with standards established
10 in the MUTCD. Such advance warning signs shall also, to the extent
11 authorized by the MUTCD, contain words "speed camera ahead" and be no
12 more than three hundred feet from such photo speed violation monitoring
13 system.

14 § 3. Paragraph 4 of subdivision (c) of section 1180-b of the vehicle
15 and traffic law, as added by chapter 189 of the laws of 2013, is amended
16 to read as follows:

17 4. "school speed zone" shall mean a radial distance not to exceed one
18 thousand three hundred twenty feet [on a highway passing] from a school
19 building, entrance, or exit [of a school abutting on the highway].

20 § 4. Subdivision (n) of section 1180-b of the vehicle and traffic law,
21 as added by chapter 189 of the laws of 2013, is amended to read as
22 follows:

23 (n) If the city adopts a demonstration program pursuant to subdivision
24 [one] (a) of this section it shall conduct [a] an annual study and
25 submit a report on the results of the use of photo devices to the gover-
26 nor, the temporary president of the senate and the speaker of the assem-
27 bly on or before June first, two thousand nineteen and on the same date

1 in each succeeding year in which the demonstratable program is operable.

2 Such report shall include:

3 1. the locations where and dates when photo speed violation monitoring
4 systems were used;

5 2. the aggregate number, type and severity of crashes, fatalities,
6 injuries and property damage reported within all school speed zones
7 within the city, to the extent the information is maintained by the
8 department of motor vehicles of this state;

9 3. the aggregate number, type and severity of crashes, fatalities,
10 injuries and property damage reported within school speed zones where
11 photo speed violation monitoring systems were used, to the extent the
12 information is maintained by the department of motor vehicles of this
13 state;

14 4. the number of violations recorded within all school speed zones
15 within the city, in the aggregate on a daily, weekly and monthly basis;

16 5. the number of violations recorded within each school speed zone
17 where a photo speed violation monitoring system is used, in the aggre-
18 gate on a daily, weekly and monthly basis;

19 6. the number of violations recorded within all school speed zones
20 within the city that were:

21 (i) more than ten but not more than twenty miles per hour over the
22 posted speed limit;

23 (ii) more than twenty but not more than thirty miles per hour over the
24 posted speed limit;

25 (iii) more than thirty but not more than forty miles per hour over the
26 posted speed limit; and

27 (iv) more than forty miles per hour over the posted speed limit;

1 7. the number of violations recorded within each school speed zone
2 where a photo speed violation monitoring system is used that were:

3 (i) more than ten but not more than twenty miles per hour over the
4 posted speed limit;

5 (ii) more than twenty but not more than thirty miles per hour over the
6 posted speed limit;

7 (iii) more than thirty but not more than forty miles per hour over the
8 posted speed limit; and

9 (iv) more than forty miles per hour over the posted speed limit;

10 8. the total number of notices of liability issued for violations
11 recorded by such systems;

12 9. the number of fines and total amount of fines paid after the first
13 notice of liability issued for violations recorded by such systems;

14 10. the number of violations adjudicated and the results of such adju-
15 dications including breakdowns of dispositions made for violations
16 recorded by such systems;

17 11. the total amount of revenue realized by the city in connection
18 with the program;

19 12. the expenses incurred by the city in connection with the program;
20 [and]

21 13. the quality of the adjudication process and its results[.]; and

22 14. the effectiveness and adequacy of the hours of operation for such
23 program to determine the impact on speeding violations and prevention of
24 crashes.

25 § 5. The opening paragraph of section 12 of chapter 43 of the laws of
26 2014, amending the vehicle and traffic law, the public officers law and
27 the general municipal law relating to photo speed violation monitoring

1 systems in school speed zones in the city of New York, is amended to
2 read as follows:

3 This act shall take effect on the thirtieth day after it shall have
4 become a law [and]; provided that sections one through ten of this act
5 shall expire 4 years after such effective date when upon such date the
6 provisions of such sections of this act shall be deemed repealed; and
7 provided further that any rules necessary for the implementation of this
8 act on its effective date shall be promulgated on or before such effec-
9 tive date, provided that:

10 § 6. The opening paragraph of section 15 of chapter 189 of the laws of
11 2013, amending the vehicle and traffic law and the public officers law
12 relating to establishing in a city with a population of one million or
13 more a demonstration program implementing speed violation monitoring
14 systems in school speed zones by means of photo devices, is amended to
15 read as follows:

16 This act shall take effect on the thirtieth day after it shall have
17 become a law and shall expire [5 years after such effective date when
18 upon such date the provisions of this act shall] and be deemed repealed
19 July 1, 2022; and provided further that any rules necessary for the
20 implementation of this act on its effective date shall be promulgated on
21 or before such effective date, provided that:

22 § 7. Photo speed violation monitoring systems within the additional
23 150 school speed zones authorized for the city of New York by paragraph
24 1 of subdivision (a) of section 1180-b of the vehicle and traffic law,
25 as amended by section one of this act, shall be authorized to be
26 installed over the 3 year period following the effective date of this
27 act as follows:

28 (a) in no more than 50 school speed zones during the first such year;

1 (b) in no more than 50 additional school speed zones during the second
2 such year; and

3 (c) in no more than 50 additional school speed zones during the third
4 such year.

5 § 8. Subdivision (m) of section 1180-b of the vehicle and traffic law,
6 as added by chapter 189 of the laws of 2013, is amended as follows:

7 (m) (i) Nothing in this section shall be construed to limit the
8 liability of an operator of a vehicle for any violation of subdivision
9 (c) or (d) of section eleven hundred eighty of this article.

10 (ii) Any penalties, monetary fines, or interest collected pursuant to
11 this section, attributable to zones in excess of one hundred forty,
12 shall be paid over by the fifteenth business day of each succeeding
13 month to the New York city transit authority to support capital initi-
14 atives for improvements to system safety.

15 § 9. Notwithstanding the provisions of article 5 of the general
16 construction law, the provisions of:

17 (a) paragraph (1) of subdivision (a) of section 1180-b of the vehicle
18 and traffic law, as amended by section one of this act, is hereby
19 revived and shall be deemed to have been in full force and effect on and
20 after July 25, 2018; and

21 (b) section 1180-b of the vehicle and traffic law, as amended by
22 sections two, three, four and eight of this act, is hereby revived and
23 shall be deemed to have been in full force and effect on and after
24 August 30, 2018.

25 § 10. This act shall take effect immediately; provided that the amend-
26 ments to section 1180-b of the vehicle and traffic law made by sections
27 one, two, three, four and eight of this act shall not affect the repeal
28 of such section and shall be deemed repealed therewith; and provided

1 further that the amendments to paragraph 2 of subdivision (a) of section
2 1180-b of the vehicle and traffic law made by section two of this act
3 shall take effect on the ninetieth day after it shall have become a law.

4 PART DD

5 Section 1. Short title. This act shall be known and may be cited as
6 the "Gateway Development Commission Act".

7 § 2. Gateway Development Commission. 1. Legislative findings and
8 intent. The legislature finds and declares: that the states of New
9 Jersey and New York and their respective citizens share a common concern
10 to preserve the functionality and strengthen the resiliency of long-dis-
11 tance and commuter rail infrastructure between New Jersey and New York,
12 including passenger rail infrastructure owned, controlled or utilized by
13 the National Railroad Passenger Corporation, also known as "Amtrak";
14 that the two states and their respective citizens share the benefits of
15 existing interstate passenger rail infrastructure between the two
16 states, including the existing North River tunnel; that interstate
17 passenger rail service and infrastructure is vital to the economies of
18 New Jersey and New York; that, because of the passage of time and damage
19 caused by natural disasters, both states recognize the existing inter-
20 state passenger rail infrastructure, including the existing North River
21 tunnel, is at risk of system failures that could result in prolonged
22 service disruptions that would severely damage the economies of the two
23 states and many other participants in the economy of the northeast
24 corridor; that both states recognize the urgent need to undertake
25 projects necessary to create passenger rail capacity under the Hudson
26 River, rehabilitate passenger rail infrastructure, maintain current

1 levels of long-distance and commuter rail service between the two states
2 and provide additional reliability, safety and security; that the citi-
3 zens of both states will share the benefits of expanded capacity and
4 rehabilitated passenger rail infrastructure between the two states; and
5 that there has been a long history of cooperation among state and local
6 governmental entities, Amtrak and various private organizations and
7 individuals in the two states to ensure the preservation of a variety of
8 passenger rail service options. The legislature therefore determines
9 that there is a need to endorse and formalize that bi-state cooperative
10 effort to help ensure that the functionality of long-distance and commu-
11 ter rail infrastructure between New Jersey and New York and thence
12 throughout the northeast corridor, is preserved and maintained for the
13 benefit of the economy of New Jersey and New York and for the well-being
14 of present and future generations of citizens in both states; and that
15 the creation of a bi-state commission that shall be a body corporate and
16 politic established by the states of New Jersey and New York, acting in
17 the public interest and exercising essential governmental functions, is
18 an appropriate means to accomplish these very important goals. It is the
19 intention of the legislature that the commission so created constitute
20 an institution which has been established by the states to effectuate a
21 public purpose and is therefore eligible to apply for transportation
22 assistance from the United States government, including the agencies
23 thereof.

24 2. Definitions. Except where different meanings are expressly speci-
25 fied in subsequent provisions of this section, the following terms shall
26 have the following meanings:

27 (a) "Act" shall mean the Gateway Development Commission act.

1 (b) "Amtrak" shall mean National Railroad Passenger Corporation, a
2 corporation organized under 49 U.S.C. § 24101 et. Seq. and the laws of
3 the District of Columbia.

4 (c) "Board" means the board of commissioners of the commission.

5 (d) "Commission" shall mean the gateway development commission which
6 is established pursuant to this act.

7 (e) "Facilitate" shall mean the planning, designing, financing, acqui-
8 sition, development, redevelopment, expansion, construction, recon-
9 struction, replacement, lease, leaseback, licensing, asset management,
10 optimization, rehabilitation, repair, alteration, improvement, exten-
11 sion, management, ownership, use and effectuation of the matters
12 described in this act. "Facilitation" shall have a concomitant meaning.

13 (f) "Full Funding" shall mean the date on which the sum of commitments
14 to fund, from sources deemed by the commission to be creditworthy, plus
15 commission cash-on-hand, plus any institution of a tariff or an agree-
16 ment to impose user fees not subject to further approvals (if any), plus
17 such other sources of funding deemed certain to be available as and when
18 required, by the commission as at the date first so considered, is
19 sufficient to facilitate the project.

20 (g) "Meeting" means any gathering, whether corporeal or by means of
21 communication equipment, which is attended by, or open to, the board,
22 held with the intent, on the part of the commissioners present, to act
23 as a unit upon the specific public business of the commission. "Meeting"
24 does not mean a gathering (i) attended by less than a quorum of commis-
25 sioners; (ii) in which the board is engaged in ordinary course super-
26 vision of commission staff; (iii) in which consideration of commission
27 business matters are informally discussed without the intent or effect
28 of effectuating any action of the commission; or (iv) attended by or

1 open to all the members of three or more similar public bodies at a
2 convention or similar gathering.

3 (h) "Project" shall mean the facilitation of a passenger rail trans-
4 portation project between Penn Station, Newark, New Jersey and Penn
5 Station, New York, New York currently referred to as the "Gateway
6 Program".

7 (i) "Public business" means matters which relate in any way, directly
8 or indirectly, to the performance of the functions of the commission or
9 the conduct of its business.

10 3. Creation of the commission; purposes. There is hereby created the
11 Gateway Development Commission, a body corporate and politic established
12 by the states of New Jersey and New York, which shall be deemed to be
13 acting in the public interest and exercising essential government func-
14 tions in taking action hereunder and which shall be a public authority
15 and a government sponsored authority. The purposes of the commission
16 shall include the following:

17 (a) facilitate the project;

18 (b) coordinate activities of governmental entities, Amtrak and private
19 entities providing assistance to the project or otherwise regulating the
20 project, with a view to achieving full funding, and encourage and enable
21 such parties to participate in the effectuation of the project;

22 (c) act as a coordinating agency to arrange for cooperation among the
23 federal government, the states of New Jersey and New York, any local
24 government thereof, any agency, instrumentality, department, commission
25 or authority of any one or more of the foregoing, any bi-state agency,
26 Amtrak, any individual or private firm, entity or corporation, or with
27 any one or more of them (including by contract among the parties), for
28 and in connection with the facilitation of the project for any of the

1 purposes of this act, and to enter into an agreement or agreements (and
2 from time to time to enter into agreements amending or supplementing the
3 same) with the federal government, the states of New Jersey and New
4 York, any local government thereof, any agency, instrumentality, depart-
5 ment, commission or authority of any one or more of the foregoing, any
6 bi-state agency, Amtrak, any individual or private firm, entity or
7 corporation, or with any one or more of them, for or relating to such
8 purposes, including but not limited to agreements with respect to finan-
9 cial assistance, loans, grants or any other funding as may be available
10 for the project. The commission is hereby intended to qualify for,
11 authorized, and empowered to apply for and accept, financial assistance,
12 loans, grants or any other funding for such purposes under federal,
13 state or local laws, and to make application directly to the appropriate
14 officials or agencies for the application for and receipt of federal,
15 state or local assistance, loans, grants or any other funding in aid of
16 any of the purposes of this act;

17 (d) pursue efforts with Amtrak and other third parties to: (i)
18 achieve greater coordination between intercity and commuter rail passen-
19 ger transportation; (ii) identify sources of funding to share the cost
20 of providing rail passenger transportation developed in connection with
21 the project, including the cost of operating facilities; and (iii) carry
22 out strategies to achieve safe and efficient intercity and commuter rail
23 passenger transportation;

24 (e) take any and all actions authorized by this act which are or may
25 be necessary or appropriate to constitute and maintain itself as an
26 applicant eligible to qualify to apply for and be awarded financial
27 assistance, loans, grants or other funding as may be available for the

1 project, including that awarded by federal, state and local governments
2 and the agencies thereof; and

3 (f) facilitate the project by making and enforcing such rules and
4 regulations and establishing, levying and collecting such tolls, fees,
5 rates, charges and rentals in connection with the project or any portion
6 thereof, as it may deem necessary or appropriate, which said tolls,
7 fees, rates, charges and rentals shall not be established at rates
8 intended to be greater than necessary to meet the expenses of the
9 financing, construction, asset management and optimization thereof, and
10 to provide for the payment of, with interest upon, and the amortization
11 and retirement of bonds or other securities or obligations issued or
12 incurred for project purposes, including establishment of prudent
13 reserves, and provided that such tolls, fees, rates, charges and rentals
14 do not conflict with applicable federal law and the laws of the states
15 of New Jersey and New York.

16 4. Board of commissioners. (a) The commission shall act through a
17 vote of its three commissioners: one of which will be directly appointed
18 by the commissioner of the New York state department of transportation;
19 one of which will be directly appointed by the board of directors of the
20 New Jersey transit corporation; and one of which will be directly
21 appointed by Amtrak. The commissioner appointed by Amtrak will serve to
22 represent Amtrak's interest, as owner-operator or user of the northeast
23 corridor, in the work to be undertaken by the commission.

24 (b) The commission's initial commissioners shall be the individuals
25 serving as trustees of the Gateway Program Development Corporation, a
26 New Jersey non-profit corporation, at the time of the effective date of
27 this act. The Gateway Program Development Corporation trustees
28 appointed by New Jersey and New York shall each serve an initial term as

1 commissioners of the commission expiring on December 31, 2019. The Gate-
2 way Program Development Corporation trustee appointed by Amtrak shall
3 serve an initial term as commissioner of the commission expiring on
4 December 31, 2021. Aside from the commission's initial commissioners,
5 all other commissioners shall serve for a term of three years.

6 (c) At the conclusion of a commissioner's term, including an initial
7 commissioner's term, the commissioner may be reappointed for a succes-
8 sive three year term at the pleasure of the party who originally
9 appointed that commissioner, or in the case of the initial commission-
10 ers, the party who originally appointed that individual as a trustee of
11 the Gateway Program Development Corporation. A commissioner shall auto-
12 matically continue to serve following the expiration of his term until a
13 successor is appointed in accordance with paragraph (a) of this subdivi-
14 sion and seated.

15 (d) In the event that a commissioner ceases to serve before the stated
16 expiration of his term, the party that originally appointed the commis-
17 sioner may appoint a replacement to serve out the remainder of the
18 replaced commissioner's term and thereafter, the vacancy shall be filled
19 as provided for in paragraph (a) of this subdivision.

20 (e) Commissioners shall serve without compensation, but the commission
21 may, within the limits of funds appropriated or otherwise made available
22 to it, reimburse commissioners for actual expenses necessarily incurred
23 in the discharge of their official duties.

24 (f) The commissioner from the state of New Jersey and the commissioner
25 from state of New York shall be indemnified by the state of New Jersey
26 and the state of New York, respectively, to the same extent as such
27 state indemnifies a public officer for any claim or judgment arising out
28 of such public officer's official duties.

1 5. Organization of the commission; meetings. (a) The commissioners
2 shall select a chairperson. The chairperson shall be elected from the
3 representatives of New Jersey and New York, and shall hold office for
4 one year. The initial chairperson shall be the commissioner who was
5 serving as chairperson of the board of trustees of the Gateway Program
6 Development Corporation whose term as chairperson shall continue until
7 the earlier to occur of (i) the date on which such commissioner's term
8 as the Gateway Program Development Corporation chairperson would have
9 expired; or (ii) the date on which that commissioner is otherwise termi-
10 nated as a commissioner. Thereafter, the commissioner appointed by the
11 state which did not appoint the initial chairperson shall succeed as
12 chairperson. The chairpersonship shall be alternated between the two
13 states. The commissioner appointed by Amtrak shall serve as vice-chair-
14 person.

15 (b) The commission shall meet regularly as it may determine. Meetings
16 of the commission shall be held at such times and places as the chair-
17 person of the commission deems appropriate, but to the maximum extent
18 practicable and feasible, meetings shall be held on an alternating basis
19 in New Jersey and New York.

20 (c) The powers of the commission may be exercised by the commissioners
21 at a meeting duly called and held where a quorum of all three commis-
22 sioners are present; provided, however, that in the event a vacancy
23 remains for ninety days, the powers of the commission may be exercised
24 by the commissioners at a meeting duly called and held where all remain-
25 ing commissioners are present. Action may be taken and motions and
26 resolutions adopted by the commission at any meeting thereof by unani-
27 mous affirmative vote of the commissioners. The commissioners shall

1 adopt bylaws providing for attendance protocols, voting procedures and
2 other matters related to the conduct of the business of the commission.

3 (d) The commission may request the assistance and services of such
4 employees and agents as it may require and as may be made available to
5 it for the purpose of carrying out its duties under this act, which
6 agents may include private consultants and persons employed by or acting
7 as a consultant for the federal government, the states of New Jersey and
8 New York or any local government thereof, any agency, instrumentality,
9 department, commission or authority of any one or more of the foregoing,
10 any bi-state agency, or of Amtrak, and each such government and enumer-
11 ated party is authorized to provide any such assistance and services to
12 the commission.

13 (e) The commission may, within the limits of funds appropriated or
14 otherwise made available to it for those purposes, employ such profes-
15 sional, technical, clerical staff and consultants and incur such
16 expenses as it may deem necessary or appropriate in order to perform its
17 duties.

18 (f) The legislature finds and declares that the right of the public to
19 be present at meetings of the commission, and to witness the deliber-
20 ation, policy formulation, and decision making of the commission, is
21 vital to the enhancement and proper functioning of the democratic proc-
22 ess, and that secrecy in public affairs undermines the faith of the
23 public in government and the public's effectiveness in fulfilling its
24 role in a democratic society; and declares it to be the public policy of
25 this state to ensure the right of its citizens to have adequate advance
26 notice of and the right to attend all meetings of the commission at
27 which any public business is acted upon in any way, except only in those
28 circumstances where the public interest would be clearly endangered, the

1 relevant matters are made confidential by federal or state law, or the
2 personal privacy of individuals would be clearly in danger of unwar-
3 ranted invasion.

4 (g) The commission shall adopt and promulgate appropriate bylaws,
5 rules and regulations concerning the right of the public to be present
6 at meetings of the commission and to obtain records of the commission's
7 activities or public business. Any rules or regulations adopted here-
8 under shall become a part of the minutes of the commission and be posted
9 on its website.

10 6. Duties of the commission. The duties of the commission shall be to
11 use its efforts to accomplish, at such times as it is appropriate to do
12 so, the following actions, provided that the commission shall not be in
13 dereliction of its duties so long as it acts in good faith to accomplish
14 such:

15 (a) make appropriate application for, and act as a coordinating,
16 distributing, or recipient agency for, federal, state, or private fund-
17 ing and authorizations necessary or appropriate to facilitate the
18 project;

19 (b) cooperate with other agencies or authorities or departments
20 (federal, state, local, and bi-state), Amtrak and private parties to
21 facilitate the project, including entering into agreements specifying a
22 party's rights and obligations with respect to the project, to create a
23 project capable of achieving long-term stability and full funding, with-
24 out obligating the full faith and credit of the federal government,
25 either state or any local government thereof or any other party, except
26 as explicitly authorized by any party empowered by law to do so;

27 (c) adopt bylaws to govern the conduct of its affairs, and adopt rules
28 and regulations, including a conflict of interest policy and code of

1 ethics for commissioners and officers of the commission, and make appro-
2 priate orders to carry out and discharge its powers, duties and func-
3 tions;

4 (d) expend such funds as are required to effectuate the purposes set
5 forth above and, until expenditure is required, to hold and invest funds
6 as a prudent fiduciary under the laws of the states;

7 (e) recommend appropriate federal, state and local government legis-
8 lation and agency administrative action pertaining to the project;

9 (f) within 18 months of the date the commission organizes and not less
10 than annually thereafter, prepare a progress report on its activities,
11 and submit it, together with any recommendations for state or local
12 government legislation or agency administrative action to the governor,
13 the temporary president of the senate and the speaker of the assembly;
14 and

15 (g) take such other action as may be necessary or appropriate to
16 further the purposes of this act.

17 7. Powers of the commission. The commission shall have the power to
18 undertake the following:

19 (a) facilitate the project, including, but not limited to, through
20 contracts and agreements and other documents and instruments which the
21 commission is otherwise authorized to make, enter into, execute and
22 deliver, provided, however, that the commission shall not have the
23 authority to operate or directly engage in transportation services such
24 that the commission would be subject to the jurisdiction of the federal
25 surface transportation board;

26 (b) sue and be sued in its own name in federal and state courts in
27 Mercer county, New Jersey and New York county, New York, it being under-

1 stood that the commissioners shall have no obligation or liability for
2 the acts or omissions of the commission;

3 (c) accept, receive, disburse, encumber and expend funds from whatever
4 source derived, including, without limitation, federal assistance,
5 grants and loans; state and local government assistance, grants and
6 loans; single state or bi-state agency assistance, grants and loans;
7 private sources, grants and loans; and Amtrak grants and loans, in each
8 case as may be necessary to accomplish any lawful purpose which the
9 commissioners determine will facilitate the project and achieve long-
10 term stability and full funding;

11 (d) acquire, including, without limitation, by gift, purchase,
12 exchange or condemnation in accordance with the requirements of this
13 act, subdivide, lease, license, take and hold property of every
14 description and to manage such property and develop any undeveloped
15 property owned, leased or controlled by it in a manner necessary or
16 appropriate to facilitate the project;

17 (e) make, procure, enter into, execute and deliver contracts and
18 agreements and other documents and instruments as may be necessary or
19 appropriate to carry out any power of the commission under this act and
20 to otherwise accomplish any lawful purpose which the commissioners
21 determine will facilitate the project, including, without limitation,
22 with the federal government, the states of New Jersey and New York, with
23 any local government thereof, with any agency, instrumentality, depart-
24 ment, commission or authority of any one or more of the foregoing, any
25 bi-state agency, Amtrak, any individual or private firm, entity or
26 corporation, or with any one or more of them;

27 (f) make applications for and accept funding, permits, authorizations
28 and approvals as may be necessary or appropriate to accomplish any

1 lawful purpose which the commissioners determine will facilitate the
2 project, including, without limitation, with the federal government, the
3 states of New Jersey and New York, with any local government thereof,
4 with any agency, instrumentality, department, commission or authority of
5 any one or more of the foregoing, any bi-state agency, Amtrak, any indi-
6 vidual or private firm, entity or corporation, or with any one or more
7 of them;

8 (g) grant public and private entities the use of the project or a
9 portion thereof by way of franchise, license, lease or otherwise,
10 provide for payments to and accept payments from such entities in
11 exchange for value received from such use, work or services performed or
12 otherwise and to establish or agree with project users on tolls, fees,
13 rates, charges, revenue sharing and rentals for the use thereof,
14 provided that such tolls, fees, rates, charges, revenue sharing and
15 rentals do not conflict with applicable federal law and the laws of the
16 states of New Jersey and New York, and provided further that the commis-
17 sion shall not have the authority to set passenger fares for Amtrak or
18 any publicly owned and operated passenger service utilizing the project;

19 (h) adopt its own public procurement rules and guidelines that the
20 commission deems necessary or appropriate to facilitate the project
21 through any combination of means and methods otherwise available to the
22 commission under this act, regardless of whether such combination is
23 generally available to the states of New Jersey and New York, any local
24 government thereof, any agency, instrumentality, department, commission
25 or authority of any one or more of the foregoing, or any bi-state agen-
26 cy, and engage and contract with third parties in accordance with such
27 procurement rules and guidelines;

1 (i) dispose of, convey or transfer all or any portion of the project
2 for value as may be expeditious for the facilitation of the project, so
3 long as it has determined that the transferee has or is provided with a
4 sufficient source of financing to acquire, operate, maintain and own the
5 project;

6 (j) issue and guarantee bonds, notes or other evidence of indebt-
7 edness, enter into loan agreements and otherwise borrow funds, or incur
8 indebtedness or other future payment obligations for any corporate
9 purpose, including to effectuate full funding, and to assign, pledge,
10 mortgage, secure, encumber and use its funds, assets, property and
11 revenues for repayment thereof, to be payable out of the funds, assets,
12 properties and revenues of the commission without recourse to taxation,
13 provided that the commission shall have no power to pledge the full
14 faith and credit of the federal government, either state or any local
15 government thereof, or of Amtrak or the Port Authority of New York and
16 New Jersey in connection with the project, or to impose any obligation
17 for payment of the bonds upon the federal government, either state or
18 any local government thereof, or of Amtrak or the Port Authority of New
19 York and New Jersey, in each case except as set forth in a binding
20 agreement, or to otherwise commit any party to incur any liability in
21 excess of its contractual obligations in connection with the project,
22 and provided further that neither the commissioners nor any person
23 executing any bonds issued or guaranteed by the Commission shall be
24 liable personally on such bonds or be subject to any personal liability
25 or accountability by reason of the issuance thereof;

26 (k) acquire and hold securities for investment purposes or in
27 connection with the facilitation of the project;

1 (l) appoint, employ, contract with and compensate such officers,
2 employees and agents, including engineers, attorneys, consultants,
3 financial advisors and such other persons or entities as the business of
4 the commission may require and to engage and dismiss such officers,
5 employees and agents at will, and fix and provide for the qualification,
6 appointment, removal, term, tenure, compensation, pension and retirement
7 rights of its officers and employees;

8 (m) obtain insurance as the commission may deem advisable and to
9 create a captive insurer to self-insure risk as deemed appropriate by
10 the commission;

11 (n) cooperate with the federal government, the states of New Jersey
12 and New York, with any local government thereof, with any agency,
13 instrumentality, department, commission or authority of any one or more
14 of the foregoing, any bi-state agency, Amtrak, any individual or private
15 firm, entity or corporation, or with any one or more of them, in
16 connection with the project, and to enter into an agreement or agree-
17 ments, notwithstanding any other provision of law of the states, gener-
18 al, special, charter or local, with the federal government, with the
19 states of New Jersey and New York, with any local government thereof,
20 with any agency, instrumentality, department, commission or authority of
21 any one or more of the foregoing, any bi-state agency, Amtrak, any indi-
22 vidual or private firm, entity or corporation, or with any one or more
23 of the same for or relating to the project;

24 (o) indemnify individuals and entities to the extent required to
25 facilitate the project;

26 (p) establish or acquire subsidiaries as required to facilitate the
27 project;

1 (q) utilize the existing labor force in the states and foster labor
2 harmony in allowing for adoption of efficient labor work rules and prac-
3 tices during construction of the project; and

4 (r) exercise all other powers as may be necessary or appropriate in
5 furtherance of, and consistent with, the purposes of this act.

6 8. Exemption from taxes, local laws. (a) The commission shall be
7 performing essential governmental functions in exercising its powers and
8 functions and in carrying out the provisions of this act and of any law
9 relating thereto, and shall not be required to pay any taxes or assess-
10 ments of any character, levied by either state or any local government
11 thereof, upon any of the property used by it or its agents or contrac-
12 tors for the facilitation of the project, or any income or revenue ther-
13 efrom, including any profit from a sale, lease or exchange, or in
14 connection with the transfer thereof or of any real property interest
15 therein. Any bonds or other securities or obligations issued by the
16 commission, their transfer and the interest paid thereon or income ther-
17 efrom, including any profit from a sale or exchange, shall at all times
18 be free from taxation by either state or any subdivision thereof.

19 (b) The commission shall, as a matter of policy, conform to the enact-
20 ments, ordinances, resolutions and regulations of the respective states
21 and local governments where the project is located in regard to the
22 construction and maintenance of the project and in regard to health and
23 fire protection which would be applicable if the commission were a
24 private corporation, to the extent that the commission finds it practi-
25 cable so to do, without interfering with, impairing or affecting the
26 efficiency of its purposes under this act, or its ability to effectuate
27 the project upon a self-supporting basis, or its obligations, duties and
28 responsibilities to the two states, its bondholders, if any, and the

1 general public, but the decision of the commission as to whether it is
2 practicable so to do shall be controlling. To that end, the commission
3 shall submit copies of plans and specifications for buildings and struc-
4 tures to the appropriate state and local government officials and shall
5 consult with them with respect thereto, and shall receive their comments
6 and suggestions thereon, but the commission shall make the final deter-
7 mination as to which comments and suggestions to accept in effectuating
8 the project.

9 (c) The commission is hereby authorized and empowered, in its
10 discretion, to enter into a voluntary agreement or agreements with any
11 local government whereby the commission may undertake to pay in lieu of
12 taxes a fair and reasonable sum, if any, annually in connection with any
13 real property acquired and owned by the commission for any of the
14 purposes of this act, and to provide for the payment as a rental or
15 additional rental charge by any person occupying any portion of such
16 real property as lessee, vendee or otherwise of such fair and reasonable
17 sum, provided that in no event shall any voluntary agreement entered
18 into by the commission provide for the payment of an amount in lieu of
19 taxes in excess of the amount last paid as taxes upon such real property
20 prior to the time of its acquisition by the commission.

21 (d) Notwithstanding any other provision of law, general, special,
22 charter or local, each local government is hereby authorized and
23 empowered to enter into such agreement or agreements with the commis-
24 sion, and to accept the payment or payments which the commission is
25 hereby authorized and empowered to make, and the sums so received by
26 such local government shall be devoted to purposes to which taxes may be
27 applied in all affected taxing jurisdictions unless and until otherwise
28 directed by law of the state in which such local government is located.

1 § 3. Subdivisions 1, 2 and 3 of section 14-c of the transportation
2 law, as added by chapter 639 of the laws of 1971, are amended to read as
3 follows:

4 1. The department of transportation may cooperate and contract with
5 the national railroad passenger corporation or the gateway development
6 commission for any intercity rail passenger services deemed necessary,
7 convenient or desirable by the commissioner, within the amounts avail-
8 able by appropriation therefor, as such services are made available
9 pursuant to the provisions of the rail passenger service act of nineteen
10 hundred seventy and any acts amendatory or supplemental thereto, subject
11 to the approval of the director of the budget or pursuant to reimburse-
12 ment available from the gateway development commission, any railroad
13 company, any other state or agency, the federal government, any public
14 authority of this state or any other state or two or more states, or any
15 political subdivision or municipality of the state. Notwithstanding any
16 inconsistent law, general, special or local, the commissioner, as funds
17 are made available for the purposes hereof, is hereby empowered to
18 contract with such corporation or the gateway development commission and
19 to do all other things necessary, convenient or desirable on behalf of
20 the state to secure the full benefits available under and pursuant to
21 such act and any other federal act which provides funding for intercity
22 rail passenger services, and to contract and do all other things neces-
23 sary as hereinafter provided on behalf of the state to effect [the] and
24 facilitate intercity rail passenger [service program] services which he
25 determines is necessary, convenient or desirable; provided that activ-
26 ities with the gateway development commission shall be limited to those
27 which advance the purposes described in the chapter of the laws of two
28 thousand nineteen that created the gateway development commission and

1 shall be contingent on the commissioner entering into an agreement with
2 the gateway development commission, approved in accordance with the
3 chapter of the laws of two thousand nineteen that created such commis-
4 sion.

5 2. The commissioner shall coordinate the intercity rail passenger
6 activities of the state and other interested public and private organ-
7 izations and persons to effectuate the purposes of this section and
8 shall have the responsibility for negotiating with the federal govern-
9 ment with respect to intercity rail passenger service programs, except
10 to the extent responsibility is delegated by legislation to another
11 agency, instrumentality, any public authority of this state or any other
12 state or two or more states, or any political subdivision or munici-
13 pality of the state for one or more of such activities. The commission-
14 er is authorized to enter into joint service agreements between the
15 state and any railroad company, any other state department or agency,
16 the federal government, the Canadian government, any other state, or
17 agency or instrumentality thereof, any public authority of this state or
18 any other state or two or more states, or any political subdivision or
19 municipality of the state, relating to property, buildings, structures,
20 facilities, services, rates, fares, classifications, dividends, allow-
21 ances or charges (including charges between intercity rail passenger
22 service facilities), or rules or regulations pertaining thereto, for or
23 in connection with or incidental to transportation in part upon inter-
24 city rail passenger service facilities. Intercity rail passenger service
25 facilities include the right of way and related trackage, rails, cars,
26 locomotives, or other rolling stock, signal, power, fuel, communication
27 and ventilation systems, power plants, stations, terminals, tunnels,
28 storage yards, repair and maintenance shops, yards, equipment and parts,

1 offices and other real estate or personnel used or held for or inci-
2 dental to the operation, rehabilitation or improvement of any railroad
3 operating intercity rail passenger service or to operate such service,
4 including but not limited to buildings, structures, and rail property.

5 3. [The] Notwithstanding any other provision of law, general, special,
6 charter or local, the commissioner may on such terms and conditions as
7 he may determine necessary, convenient or desirable, establish,
8 construct, effectuate, operate, maintain, renovate, improve, extend or
9 repair any such intercity rail passenger service facility or any related
10 services and activities, or may provide for such by contract, lease or
11 other arrangement on such terms as the commissioner may deem necessary,
12 convenient or desirable with any agency, corporation or person, includ-
13 ing but not limited to any railroad company, any state agency, the
14 federal government, the Canadian government, any other state or agency
15 or instrumentality thereof, any public authority of this or any other
16 state or two or more states, or any political subdivision or munici-
17 pality of the state.

18 § 4. Notwithstanding any other provision of law of New York or New
19 Jersey, general, special, charter or local, each state and local govern-
20 ment, any agency, instrumentality, department, commission or authority
21 thereof and any bi-state agency are hereby authorized and empowered to
22 cooperate with, aid and assist the commission in effectuating the
23 provisions of this act, as it may be amended or supplemented hereafter.

24 § 5. Upon the concurrence of the state of New Jersey, the states of
25 New Jersey and New York consent to suits, actions or proceedings of any
26 form or nature at law, in equity or otherwise including proceedings to
27 enforce arbitration agreements, against the Gateway Development Commis-
28 sion, and to appeals therefrom and reviews thereof, except as hereinaft-

1 er provided. The foregoing consent does not extend to (a) suits, actions
2 or proceedings upon any causes of action whatsoever accruing before the
3 effective date of this act; (b) suits, actions or proceedings upon any
4 causes of action whatsoever, upon, in connection with, or arising out of
5 any contract, express or implied, entered into or assumed by or assigned
6 to the Gateway Development Commission before the effective date of this
7 act (including any supplement to, or amendment, extension or renewal of
8 any such contract, even if such supplement, amendment, extension or
9 renewal is made on or after the effective date of this act), regardless
10 of whether such cause of action accrued before or after that date; (c)
11 civil suits, actions or proceedings for the recovery of statutory penal-
12 ties; and (d) suits, actions or proceedings for judgments, orders or
13 decrees restraining, enjoining or preventing the Gateway Development
14 Commission from committing or continuing to commit any act or acts,
15 other than suits, actions or proceedings by the attorney general of New
16 Jersey or by the attorney general of New York, each of whom is hereby
17 authorized to bring such suits, actions or proceedings in his or her
18 discretion on behalf of any person or persons whatsoever who requests
19 him or her to do so, except in the cases otherwise excluded by this act;
20 provided, that in any such suit, action or proceeding, no judgment,
21 order or decree shall be entered except upon at least two days' prior
22 written notice to the Gateway Development Commission of the proposed
23 entry thereof.

24 The Gateway Development Commission shall be immune from liability as
25 though it were the state of New York, except to the extent that such
26 immunity is waived by the state of New York under section 8 of the New
27 York Court of Claims Act.

1 § 6. Severability. (a) If any provision of this act or the application
2 thereof to any person or circumstance is held invalid, including as not
3 in accordance with federal law or federal constitutional requirements,
4 such invalidity shall not affect other provisions or applications of the
5 act which can be given effect without the invalid provision or applica-
6 tion and to this end the provisions of this act are declared to be
7 severable.

8 (b) The provisions of this act, and the powers vested in the Gateway
9 Development Commission, shall be liberally construed to give effect to
10 the purposes of this act.

11 § 7. (a) This act shall take effect upon the enactment into law by the
12 state of New Jersey of legislation having an identical effect with this
13 act, but if the state of New Jersey shall have already enacted such
14 legislation, this act shall take effect immediately; provided that the
15 state of New Jersey shall notify the legislative bill drafting commis-
16 sion upon the occurrence of the enactment of the legislation provided
17 for in this act in order that the commission may maintain an accurate
18 and timely effective data base of the official text of the laws of the
19 state of New York in furtherance of effectuating the provisions of
20 section 44 of the legislative law and section 70-b of the public offi-
21 cers law; and

22 (b) the Gateway Development Commission shall dissolve following a
23 joint determination by the governors of New Jersey and New York that the
24 transportation project has been completed or should be transferred to
25 another agency, instrumentality or entity and (i) any bonds or other
26 securities issued and any other debt incurred for such project purposes
27 have been repaid or arrangements have been made to ensure such repayment
28 in full and (ii) Amtrak is not unduly prejudiced by such dissolution;

1 provided that the Gateway Development Commission shall notify the legis-
2 lative bill drafting commission upon the occurrence of the intended
3 dissolution in order that the commission may maintain an accurate and
4 timely effective data base of the official text of the laws of the state
5 of New York in furtherance of effectuating the provisions of section 44
6 of the legislative law and section 70-b of the public officers law.

7 PART EE

8 Section 1. The public authorities law is amended by adding a new
9 section 1279-e to read as follows:

10 § 1279-e. Assignment, transfer, sharing or consolidating powers, func-
11 tions or activities. 1. Notwithstanding any provision of this title or
12 any other provision of law, general, special or local, the authority
13 may, in whole or in part, assign, transfer, share, or consolidate any
14 one or more of its powers, duties, functions or activities or any
15 department, division or office established therewith, or any of those of
16 its subsidiaries, or affiliates or their subsidiaries, within or between
17 itself, its subsidiaries or affiliates or their subsidiaries, in a manner
18 consistent with the provisions of this section.

19 2. Any such assignment, transfer, sharing, or consolidation pursuant
20 to this section shall occur only if approved by resolution of the board
21 of the authority, serving on behalf of the authority and any affected
22 subsidiary or affiliate or their subsidiary, adopted by not less than a
23 majority vote of the whole number of members of the authority then in
24 office, with the chairman having one additional vote in the event of a
25 tie vote.

1 3. Pursuant to this section, any such assigning, transferring, shar-
2 ing, or consolidating of powers, duties, functions or activities shall
3 not be authorized where it would impair any rights and remedies of any
4 holders of notes, bonds or other obligations issued by or violate any
5 duly executed labor agreements entered into by the authority, its
6 subsidiaries, or affiliates or their subsidiaries.

7 § 2. This act shall take effect immediately.

8 PART FF

9 Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503
10 of the vehicle and traffic law, paragraph (b-1) as added by section 1
11 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the
12 laws of 2009, are amended to read as follows:

13 (b-1) Supplemental learner permit/license fee in the metropolitan
14 commuter transportation district. (i) Upon passage of the knowledge test
15 required to obtain a learner's permit, an applicant for a driver's
16 license who resides in the metropolitan commuter transportation district
17 established by section one thousand two hundred sixty-two of the public
18 authorities law shall be required to pay a supplemental fee of one
19 dollar for each six months or portion thereof of the period of validity
20 of a learner's permit or license which is or may be issued pursuant to
21 the provisions of subparagraph (i) or (ii) of paragraph (b) of this
22 subdivision.

23 (ii) The commissioner shall deposit daily all funds collected pursuant
24 to subparagraph (i) of this paragraph with such responsible banks, bank-
25 ing houses or trust companies as may be designated by the state comp-
26 troller, [to the credit of the comptroller] in trust for the credit of

1 the metropolitan transportation authority. An account may be established
2 in one or more of such depositories. Such deposits shall be kept sepa-
3 rate and apart from all other money in the possession of the
4 comptroller. On or before the twelfth day of each month, the commission-
5 er shall certify to the comptroller the amount of all revenues received
6 pursuant to subparagraph (i) of this paragraph during the prior month as
7 a result of the supplemental fee imposed, including any interest and
8 penalties thereon. The revenues so certified over the prior three months
9 in total shall be [deposited by the state comptroller in the metropol-
10 itan transportation authority aid trust account of the metropolitan
11 transportation authority financial assistance fund established pursuant
12 to section ninety-two-ff of the state finance law for deposit, subject
13 to] paid over by the fifteenth day of the last month of each calendar
14 quarter from such account, without appropriation, [in] into the corpo-
15 rate transportation account of the metropolitan transportation authority
16 special assistance fund established by section twelve hundred seventy-a
17 of the public authorities law, to be applied as provided in paragraph
18 (e) of subdivision four of such section. Any money collected pursuant to
19 this section that is deposited by the comptroller in the [metropolitan
20 transportation authority aid trust account] corporate transportation
21 account of the metropolitan transportation authority [financial] special
22 assistance fund shall be held in such fund free and clear of any claim
23 by any person or entity paying an additional fee pursuant to this
24 section, including, without limiting the generality of the foregoing,
25 any right or claim against the metropolitan transportation authority,
26 any of its bondholders, or any subsidiary or affiliate of the metropol-
27 itan transportation authority.

1 (c-3) (i) Supplemental renewal fee in the metropolitan commuter trans-
2 portation district. In addition to the fees required to be paid pursuant
3 to paragraph (c) of this subdivision, a supplemental fee of one dollar
4 for each six months or portion thereof of the validity of the license
5 shall be paid for renewal of a license of a person who resides in the
6 metropolitan commuter transportation district established by section one
7 thousand two hundred sixty-two of the public authorities law issued by
8 the commissioner.

9 (ii) The commissioner shall deposit daily all funds collected pursuant
10 to this paragraph with such responsible banks, banking houses or trust
11 companies as may be designated by the state comptroller, [to the credit
12 of the comptroller] in trust for the credit of the metropolitan trans-
13 portation authority. An account may be established in one or more of
14 such depositories. Such deposits shall be kept separate and apart from
15 all other money in the possession of the comptroller. On or before the
16 twelfth day of each month, the commissioner shall certify to the comp-
17 troller the amount of all revenues received pursuant to this paragraph
18 during the prior month as a result of the supplemental fees imposed,
19 including any interest and penalties thereon. The revenues so certified
20 over the prior three months in total shall be [deposited by the state
21 comptroller in the metropolitan transportation authority aid trust
22 account of the metropolitan transportation authority financial assist-
23 ance fund established pursuant to section ninety-two-ff of the state
24 finance law for deposit, subject to] paid over by the fifteenth day of
25 the last month of each calendar quarter from such account, without
26 appropriation, [in] into the corporate transportation account of the
27 metropolitan transportation authority special assistance fund estab-
28 lished by section twelve hundred seventy-a of the public authorities

1 law, to be applied as provided in paragraph (e) of subdivision four of
2 such section. Any money collected pursuant to this section that is
3 deposited by the comptroller in the [metropolitan transportation author-
4 ity aid trust account] corporate transportation account of the metropol-
5 itan transportation authority [financial] special assistance fund shall
6 be held in such fund free and clear of any claim by any person or entity
7 paying an additional fee pursuant to this section, including, without
8 limiting the generality of the foregoing, any right or claim against the
9 metropolitan transportation authority, any of its bondholders, or any
10 subsidiary or affiliate of the metropolitan transportation authority.

11 § 2. Section 499-d of the vehicle and traffic law, as added by
12 section 1 of part B of chapter 25 of the laws of 2009, is amended to
13 read as follows:

14 § 499-d. Deposit and disposition of revenue from supplemental fee. The
15 commissioner shall deposit daily all funds derived from the collection
16 of the supplemental fee established pursuant to this article with such
17 responsible banks, banking houses or trust companies as may be desig-
18 nated by the state comptroller, [to the credit of the comptroller] in
19 trust for the credit of the metropolitan transportation authority. An
20 account may be established in one or more of such depositories. Such
21 deposits shall be kept separate and apart from all other money in the
22 possession of the comptroller. On or before the twelfth day of each
23 month, the commissioner shall certify to the comptroller the amount of
24 all revenues received pursuant to this article during the prior month as
25 a result of the supplemental fee imposed, including any interest and
26 penalties thereon. The revenues so certified over the prior three months
27 in total shall be [deposited by the state comptroller in the metropol-
28 itan transportation authority aid trust account of the metropolitan

1 transportation authority financial assistance fund established pursuant
2 to section ninety-two-ff of the state finance law for deposit, subject
3 to] paid over by the fifteenth day of the last month of each calendar
4 quarter from such account, without appropriation, [in] into the corpo-
5 rate transportation account of the metropolitan transportation authority
6 special assistance fund established by section twelve hundred seventy-a
7 of the public authorities law, to be applied as provided in paragraph
8 (e) of subdivision four of such section. Any money collected pursuant to
9 this section that is deposited by the comptroller in the [metropolitan
10 transportation authority aid trust account] corporate transportation
11 account of the metropolitan transportation authority [financial] special
12 assistance fund shall be held in such fund free and clear of any claim
13 by any person or entity paying an additional fee pursuant to this
14 section, including, without limiting the generality of the foregoing,
15 any right or claim against the metropolitan transportation authority,
16 any of its bondholders, or any subsidiary or affiliate of the metropol-
17 itan transportation authority.

18 § 3. Section 1288 of the tax law, as added by section 1 of part E of
19 chapter 25 of the laws of 2009, is amended to read as follows:

20 § 1288. Deposit and disposition of revenue. Notwithstanding any
21 provision of law to the contrary: (a) All taxes, interest and penalties
22 collected or received by the commissioner pursuant to this article shall
23 be deposited daily with such responsible banks, banking houses or trust
24 companies, as may be designated by the comptroller, [to the credit of
25 the comptroller] in trust for the credit of the metropolitan transporta-
26 tion authority. [Such an] An account may be established in one or more
27 of such depositories. Such deposits shall be kept separate and apart
28 from all other money in the possession of the comptroller. The comp-

1 troller shall require adequate security from all such depositories. Of
2 the total revenue collected or received under this section, the comp-
3 troller shall retain in the comptroller's hands such amount as the
4 commissioner may determine to be necessary for refunds under this arti-
5 cle. The commissioner is authorized and directed to deduct from such
6 amounts collected or received under this article, before deposit into
7 the accounts specified by the comptroller, a reasonable amount necessary
8 to effectuate refunds of appropriations of the department to reimburse
9 the department for the costs to administer, collect and distribute the
10 taxes imposed by this article.

11 (b) On or before the twelfth day following the end of each month,
12 after reserving such amount for such refunds and such costs, the commis-
13 sioner shall certify to the comptroller the amount of all revenues so
14 received pursuant to this article during the prior month as a result of
15 the taxes, interest and penalties so imposed.

16 (c) [The] By the fifteenth day of the last month of each calendar
17 quarter the comptroller shall pay over the amount of revenues from the
18 prior three months in total so certified by the commissioner [to the
19 metropolitan transportation authority aid trust account of the metropol-
20 itan transportation authority financial assistance fund established by
21 section ninety-two-ff of the state finance law for deposit, subject to],
22 without appropriation, [in] into the corporate transportation account of
23 the metropolitan transportation authority special assistance fund estab-
24 lished by section twelve hundred seventy-a of the public authorities law
25 to be applied as provided in paragraph (e) of subdivision four of such
26 section twelve hundred seventy-a. Any money collected pursuant to this
27 article that is deposited by the comptroller in the [metropolitan trans-
28 portation authority aid trust account] corporate transportation account

1 of the metropolitan transportation authority [financial] special assist-
2 ance fund shall be held in such fund free and clear of any claim by any
3 person or entity paying the tax pursuant to this article, including,
4 without limiting the generality of the foregoing, any right or claim
5 against the metropolitan transportation authority, any of its bondhold-
6 ers, or any subsidiary or affiliate of the metropolitan transportation
7 authority.

8 § 4. Section 1167 of the tax law, as amended by section 3 of part F of
9 chapter 25 of the laws of 2009, is amended to read as follows:

10 § 1167. Deposit and disposition of revenue. 1. All taxes, interest and
11 penalties collected or received by the commissioner under this article
12 shall be deposited and disposed of pursuant to the provisions of section
13 one hundred seventy-one-a of this chapter, except that after reserving
14 amounts in accordance with such section one hundred seventy-one-a of
15 this chapter, the remainder shall be paid by the comptroller to the
16 credit of the highway and bridge trust fund established by section
17 eighty-nine-b of the state finance law, provided, however, taxes, inter-
18 est and penalties collected or received pursuant to section eleven
19 hundred sixty-six-a of this article shall be [paid to the credit of the
20 metropolitan transportation authority aid trust account of the metropol-
21 itan transportation authority financial assistance fund established by
22 section ninety-two-ff of the state finance law] deposited and disposed
23 of pursuant to subdivision two of this section.

24 2. All taxes, interest, and penalties collected or received by the
25 commissioner pursuant to section eleven hundred sixty-six-a of this
26 article shall be deposited daily with such responsible banks, banking
27 houses or trust companies, as may be designated by the comptroller, in
28 trust for the credit of the metropolitan transportation authority. An

1 account may be established in one or more of such depositories. Such
2 deposits will be kept separate and apart from all other money in the
3 possession of the comptroller. Of the total revenue collected or
4 received under this article, the comptroller shall retain such amount as
5 the commissioner may determine to be necessary for refunds under this
6 article. On or before the twelfth day of each month, after reserving
7 such amount for such refunds and deducting such amounts for such costs,
8 the commissioner shall certify to the comptroller the amount of all
9 revenues received pursuant to this article during the prior month as a
10 result of the tax imposed, including any interest and penalties thereon.
11 The amount of revenues so certified over the prior three months in total
12 shall be paid over by the fifteenth day of the last month of each calen-
13 dar quarter from such account, without appropriation, into the corporate
14 transportation account of the metropolitan transportation authority
15 special assistance fund established by section twelve hundred seventy-a
16 of the public authorities law, to be applied as provided in paragraph
17 (e) of subdivision four of such section.

18 § 5. Subdivision 3 and paragraph (a) of subdivision 6 of section
19 92-ff of the state finance law, subdivision 3 as amended by section 14
20 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivi-
21 vision 6 as added by section 1 of part G of chapter 25 of the laws of
22 2009, are amended to read as follows:

23 3. Such fund shall consist of all moneys collected therefor or credit-
24 ed or transferred thereto from any other fund, account or source[,
25 including, without limitation, the revenues derived from the special
26 supplemental tax on passenger car rentals imposed by section eleven
27 hundred sixty-six-a of the tax law; revenues derived from the transpor-
28 tation surcharge imposed by article twenty-nine-A of the tax law; the

1 supplemental registration fees imposed by article seventeen-C of the
2 vehicle and traffic law; and the supplemental metropolitan commuter
3 transportation district license fees imposed by section five hundred
4 three of the vehicle and traffic law]. Any interest received by the
5 comptroller on moneys on deposit in the metropolitan transportation
6 authority financial assistance fund shall be retained in and become a
7 part of such fund.

8 (a) The "metropolitan transportation authority aid trust account"
9 shall consist of [revenues required to be deposited therein pursuant to
10 the provisions of section eleven hundred sixty-six-a of the tax law;
11 article twenty-nine-A of the tax law; article seventeen-C of the vehicle
12 and traffic law; and section five hundred three of the vehicle and traf-
13 fic law, and all other] moneys credited or transferred thereto from any
14 other [fund or] source pursuant to law.

15 § 6. Section 4 of the state finance law is amended by adding a new
16 subdivision 13 to read as follows:

17 13. Notwithstanding subdivision one of this section and any other law
18 to the contrary, the revenue (including fees, taxes, interest and penal-
19 ties) from the metropolitan commuter transportation district supple-
20 mental fees and taxes imposed pursuant to paragraph (b-1) of subdivision
21 two of section five hundred three of the vehicle and traffic law, para-
22 graph (c-3) of subdivision two of section five hundred three of the
23 vehicle and traffic law, article seventeen-C of the vehicle and traffic
24 law, article twenty-nine-A of the tax law and section eleven hundred
25 sixty-six-a of the tax law which are paid in accordance with subpara-
26 graph (ii) of paragraph (b-1) of subdivision two of section five hundred
27 three of the vehicle and traffic law, subparagraph (ii) of paragraph
28 (c-3) of subdivision two of section five hundred three of the vehicle

1 and traffic law, section twelve hundred eighty-eight of the tax law and
2 section eleven hundred sixty-seven of the tax law into the corporate
3 transportation account of the metropolitan transportation authority
4 special assistance fund established by section twelve hundred seventy-a
5 of the public authorities law shall be made pursuant to statute but
6 without an appropriation.

7 § 7. Subdivision 1 and paragraph (e) of subdivision 4 of section
8 1270-a of the public authorities law, subdivision 1 as amended by
9 section 14 and paragraph (e) of subdivision 4 as added by section 15 of
10 part H of chapter 25 of the laws of 2009, are amended to read as
11 follows:

12 1. The authority shall create and establish a fund to be known as the
13 "metropolitan transportation authority special assistance fund" which
14 shall be kept separate from and shall not be commingled with any other
15 moneys of the authority. The special assistance fund shall consist of
16 three separate accounts: (i) the "transit account", (ii) the "commuter
17 railroad account" and (iii) the "corporate transportation account".

18 The authority shall make deposits in the transit account and the
19 commuter railroad account of the moneys received by it pursuant to the
20 provisions of subdivision one of section two hundred sixty-one of the
21 tax law in accordance with the provisions thereof, and shall make depos-
22 its in the corporate transportation account of the moneys received by it
23 pursuant to the provisions of subdivision two of section two hundred
24 sixty-one of the tax law and section ninety-two-ff of the state finance
25 law. The comptroller shall deposit, without appropriation, into the
26 corporate transportation account the revenue fees, taxes, interest and
27 penalties collected in accordance with paragraph (b-1) of subdivision
28 two of section five hundred three of the vehicle and traffic law, para-

1 graph (c-3) of subdivision two of section five hundred three of the
2 vehicle and traffic law, article seventeen-C of the vehicle and traffic
3 law, article twenty-nine-A of the tax law and section eleven hundred
4 sixty-six-a of the tax law.

5 (e) Notwithstanding the foregoing provisions of this subdivision, any
6 moneys in the corporate transportation account that are received by the
7 authority: (i) without appropriation pursuant to subdivision one of this
8 section, or (ii) pursuant to the provisions of section ninety-two-ff of
9 the state finance law may be pledged by the authority, or pledged to the
10 Triborough bridge and tunnel authority, to secure bonds, notes or other
11 obligations of the authority or the Triborough bridge and tunnel author-
12 ity, as the case may be, and, if so pledged to the Triborough bridge and
13 tunnel authority, shall be paid to the Triborough bridge and tunnel
14 authority in such amounts and at such times as necessary to pay or to
15 reimburse that authority for its payment of debt service and reserve
16 requirements, if any, on that portion of special Triborough bridge and
17 tunnel authority bonds and notes issued by that authority pursuant to
18 section five hundred fifty-three-d of this chapter. Subject to the
19 provisions of any such pledge, or in the event there is no such pledge,
20 any moneys in the corporate transportation account received by the
21 authority: (i) without appropriation pursuant to subdivision one of this
22 section, or (ii) pursuant to the provisions of section ninety-two-ff of
23 the state finance law may be used by the authority for payment of oper-
24 ating costs of, and capital costs, including debt service and reserve
25 requirements, if any, of or for the authority, the New York city transit
26 authority and their subsidiaries as the authority shall determine. No
27 moneys in the corporate transportation account that are reserved by the
28 authority: (i) without appropriation pursuant to subdivision one of this

1 section; or (ii) pursuant to the provisions of section ninety-two-ff of
2 the state finance law may be used for making any payment to the Dutch-
3 ess, Orange and Rockland fund created by section twelve hundred seven-
4 ty-b of this title or considered in calculating the amounts required to
5 be paid into such fund.

6 § 8. This act shall take effect immediately.

7 PART GG

8 Section 1. Paragraph 5 of subdivision (c) and subdivision (e) of
9 section 1111-c of the vehicle and traffic law, as amended by section 6
10 of part NNN of chapter 59 of the laws of 2018, are amended and a new
11 subdivision (n) is added to read as follows:

12 5. "bus rapid transit program" shall mean [up to ten routes] any route
13 designated by the New York city department of transportation in consul-
14 tation with the applicable mass transit agency, in addition to the Bus
15 Rapid Transit Phase I plan routes, that operate on designated bus lanes
16 and that may include upgraded signage, enhanced road markings, minimum
17 bus stop spacing, off-board fare payment, traffic signal priority for
18 buses, and any other enhancement that increases bus speed or reliabil-
19 ity.

20 (e) An owner liable for a violation of a bus lane restriction imposed
21 on any route within a bus rapid transit program shall be liable for
22 monetary penalties in accordance with a schedule of fines and penalties
23 promulgated by the parking violations bureau of the city of New York;
24 provided, however, that the monetary penalty for violating a bus lane
25 restriction shall not exceed one hundred [fifteen] twenty-five dollars,
26 one hundred fifty dollars for a second offense within a twelve-month

1 period, two hundred dollars for a third offense within a twelve-month
2 period, two hundred fifty dollars for a fourth offense within a twelve-
3 month period, and three hundred fifty dollars for each subsequent
4 offense within a twelve-month period; provided, further, that an owner
5 shall be liable for an additional penalty not to exceed twenty-five
6 dollars for each violation for the failure to respond to a notice of
7 liability within the prescribed time period.

8 (n) 1. Notwithstanding any other provision of law, in accordance with
9 the provisions of this subdivision, the city of New York is hereby
10 authorized and empowered to impose monetary liability on the owner of a
11 vehicle for failure of an operator thereof to comply with the applicable
12 local laws and regulations of the city of New York relating to stopping,
13 standing, parking and turning movements as defined herein, while operat-
14 ing a vehicle within the congestion toll zone or along designated bus
15 corridors. The department of transportation of the city of New York
16 and/or an applicable mass transit agency, shall operate photo devices
17 that may be stationary or mobile and shall be activated at locations
18 determined by such department of transportation and/or on buses selected
19 by such department of transportation in consultation with the applicable
20 mass transit agency. Locations of such photo devices shall be within the
21 congestion toll zone in the borough of Manhattan or along designated bus
22 corridors to be determined jointly by the department of transportation
23 and the applicable mass transit agency.

24 2. Any image or images captured by photo devices shall be inadmissible
25 in any disciplinary proceeding convened by the applicable mass transit
26 agency or any subsidiary thereof and any proceeding initiated by the
27 department involving licensure privileges of bus operators. Any mobile
28 bus lane photo device mounted on a bus shall be directed outwardly from

1 such bus to capture images of vehicles operated in violation of the
2 local laws relating to stopping, standing, parking and turning, or in
3 violation of bus lane restrictions, and images produced by such device
4 shall not be used for any other purpose in the absence of a court order
5 requiring such images to be produced.

6 3. The city of New York shall adopt and enforce measures to protect
7 the privacy of drivers, passengers, pedestrians and cyclists whose iden-
8 tity and identifying information may be captured by a photo device. Such
9 measures shall include:

10 (i) utilization of necessary technologies to ensure, to the extent
11 practicable, that images produced by such photo devices shall not
12 include images that identify the driver, the passengers, or the contents
13 of the vehicle, provided, however, that no notice of liability issued
14 pursuant to this section shall be dismissed solely because an image
15 allows for the identification of the driver, the passengers or other
16 contents of a vehicle;

17 (ii) a prohibition on the use or dissemination of vehicles' license
18 plate information and other information and images captured by photo
19 devices except: (A) as required to establish liability under this
20 section or collect payment of penalties; (B) as required by court order;
21 (C) as required pursuant to a search warrant issued in accordance with
22 the criminal procedure law or a subpoena; or (D) as otherwise required
23 by law;

24 (iii) the installation of signage at regular intervals in the
25 congestion toll zone and along the designated bus corridors stating that
26 photo devices are used to enforce restrictions on stopping, standing,
27 parking and turning movements; and

1 (iv) oversight procedures to ensure compliance with the aforementioned
2 privacy protection measures.

3 4. Photo devices authorized by this subdivision shall only be operated
4 from 6:00 a.m. to 10:00 p.m. Warning notices of violation will be issued
5 during the first sixty days that photo device enforcement is active in
6 the congestion toll zone or along a designated bus corridor.

7 5. The owner of a vehicle shall be liable for a penalty imposed pursu-
8 ant to this subdivision if such vehicle was used or operated with the
9 permission of the owner, express or implied, in violation of any appli-
10 cable local law or regulation defined herein, while operated within the
11 congestion toll zone or along a designated bus corridor, and such
12 violation is evidenced by information obtained from a photo device;
13 provided however that no owner of a vehicle shall be liable for a penal-
14 ty imposed pursuant to this subdivision where the operator of such vehi-
15 cle has been convicted of the underlying violation of such applicable
16 local law or regulation.

17 6. For purposes of this subdivision the following terms shall have the
18 following meanings:

19 (i) "owner" shall have the meaning provided in article two-B of this
20 chapter.

21 (ii) "photo device" shall mean a device that is capable of operating
22 independently of an enforcement officer and produces one or more images
23 of each vehicle at the time it is in violation of an applicable local
24 law or regulation.

25 (iii) "applicable local law or regulation" shall mean Chapter 4 of
26 Title 34 of the Rules of the City of New York relating to stopping,
27 standing, parking, and turning movements, including but not limited to
28 the following:

§ 4-08(f)(4) and § 4-12(m): General no standing zones, Bus lanes

§ 4-08(c)(3): Violation of posted no standing rules prohibited, Bus stop

§ 4-08(f)(1): General no standing zones, Double parking

§ 4-08(k)(2): Special rules for commercial vehicles, No standing except trucks loading and unloading

§ 4-08(a)(3): Standing prohibited

§ 4-07(b)(1) and § 4-08(e)(11): Stopping prohibited

§ 4-07(e)(4): General no stopping zones, Intersections

§ 4-08 (e)(5): General no stopping zones, Crosswalks

§ 4-08(e)(12): General no stopping zones, Obstructing traffic at intersection.

§ 4-05, § 4-07(h)(2): Turns

(iv) "congestion toll zone" shall include any roadways, bridges, tunnels or ramps that are located within, or enter into, the geographic area in the borough of Manhattan established pursuant to article forty-four-C of this chapter.

7. A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this subdivision.

8. An owner liable for a violation shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, howev-

er, that the monetary penalty for a first offense of a provision of local law or regulation of the city of New York relating to stopping, standing, parking and turning movement violations pursuant to this subdivision shall not exceed one hundred twenty-five dollars, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; and provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period set forth in the notice of violation.

9. An imposition of liability pursuant to this subdivision shall not be deemed a conviction of an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

10. (i) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation under this section. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

(ii) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time

1 of such violation and the identification number of the photo device
2 which recorded the violation or other document locator number.

3 (iii) The notice of liability shall contain information advising the
4 person charged of the manner and the time in which he or she may contest
5 the liability alleged in the notice. Such notice of liability shall
6 also contain a warning to advise the persons charged that failure to
7 contest in the manner and time provided shall be deemed an admission of
8 liability and that a default judgment may be entered thereon.

9 (iv) The notice of liability shall be prepared and mailed by the agen-
10 cy or agencies designated by the city of New York, or any other entity
11 authorized by such city to prepare and mail such notification of
12 violation.

13 11. Adjudication of the liability imposed upon owners by this section
14 shall be by the New York city parking violations bureau.

15 12. If an owner of a vehicle receives a notice of liability pursuant
16 to this subdivision for any time period during which such vehicle was
17 reported to the police department as having been stolen, it shall be a
18 valid defense to an allegation of liability that the vehicle had been
19 reported to the police as stolen prior to the time the violation
20 occurred and had not been recovered by such time. For purposes of
21 asserting the defense provided by this subdivision it shall be suffi-
22 cient that a certified copy of the police report on the stolen vehicle
23 be sent by first class mail to the parking violations bureau of such
24 city.

25 13. (i) An owner who is a lessor of a vehicle to which a notice of
26 liability was issued pursuant to this subdivision shall not be liable
27 for the violation of a local law or regulation defined herein, provided
28 that:

1 (A) prior to the violation, the lessor has filed with such parking
2 violations bureau in accordance with the provisions of section two
3 hundred thirty-nine of this chapter; and

4 (B) within thirty-seven days after receiving notice from such bureau
5 of the date and time of a liability, together with the other information
6 contained in the original notice of liability, the lessor submits to
7 such bureau the correct name and address of the lessee of the vehicle
8 identified in the notice of liability at the time of such violation,
9 together with such other additional information contained in the rental,
10 lease or other contract document, as may be reasonably required by such
11 bureau pursuant to regulations that may be promulgated for such purpose.
12 Failure to timely submit such information shall render the lessor liable
13 for the penalty prescribed in this subdivision.

14 (ii) Where the lessor complies with the provisions of clause (A) of
15 this paragraph, the lessee of such vehicle on the date of such violation
16 shall be deemed to be the owner of such vehicle for purposes of this
17 subdivision, shall be subject to liability for such violation pursuant
18 to this subdivision and shall be sent a notice of liability pursuant to
19 paragraph ten of this subdivision.

20 14. If the owner liable for a violation was not the operator of the
21 vehicle at the time of the violation, the owner may maintain an action
22 for indemnification against the operator.

23 15. Nothing in this subdivision shall be construed to limit the
24 liability of an operator of a vehicle for any violation of an applicable
25 local law or regulation.

26 16. The city of New York and the applicable mass transit agency shall
27 submit a report on the results of the use of photo devices to the gover-
28 nor, the temporary president of the senate and the speaker of the assem-

1 bly by April first, within twelve months of operation of such photo
2 devices and every two years thereafter. Such report shall include, but
3 not be limited to:

4 (i) a description of the locations and/or buses where photo devices
5 were used;

6 (ii) the total number of violations recorded on a monthly and annual
7 basis;

8 (iii) the total number of notices of liability issued;

9 (iv) the number of fines and total amount of fines paid after the
10 first notice of liability;

11 (v) the number of violations adjudicated and results of such adjudi-
12 cations including breakdowns of dispositions made;

13 (vi) the total amount of revenue realized by such city and any partic-
14 ipating mass transit agency;

15 (vii) the quality of the adjudication process and its results;

16 (viii) the total number of cameras by type of camera; and

17 (ix) the total cost to the city and the total cost to any participat-
18 ing mass transit agency.

19 17. Any revenue from fines and penalties collected pursuant to this
20 subdivision from mobile bus photo devices shall be remitted by the city
21 of New York to the applicable mass transit agency on a quarterly basis
22 to be deposited in the general transportation account of the New York
23 city transportation assistance fund established pursuant to section
24 twelve hundred seventy of the public authorities law.

25 § 2. The opening paragraph of section 14 of part II of chapter 59 of
26 the laws of 2010, amending the vehicle and traffic law and the public
27 officers law relating to establishing a bus rapid transit demonstration
28 program to restrict the use of bus lanes by means of bus lane photo

1 devices, as amended by chapter 239 of the laws of 2015, is amended to
2 read as follows:

3 This act shall take effect on the ninetieth day after it shall have
4 become a law [and shall expire 10 years after such effective date when
5 upon such date the provisions of this act shall be deemed repealed; and]
6 provided that any rules and regulations related to this act shall be
7 promulgated on or before such effective date, provided that:

8 § 3. This act shall take effect immediately. Effective immediately,
9 the addition, amendment and/or repeal of any rule or regulation neces-
10 sary for the implementation of this act on its effective date are
11 authorized to be made and completed on or before such effective date.

12 PART HH

13 Section 1. Section 45 of chapter 929 of the laws of 1986 amending the
14 tax law and other laws relating to the metropolitan transportation
15 authority, as amended by chapter 63 of the laws of 2017, is amended to
16 read as follows:

17 § 45. This act shall take effect immediately; except that: (a) para-
18 graph (d) of subdivision 3 of section 1263 of the public authorities
19 law, as added by section twenty-six of this act, shall be deemed to have
20 been in full force and effect on and after August 5, 1986; (b) sections
21 thirty-three and thirty-four of this act shall not apply to a certified
22 or recognized public employee organization which represents any public
23 employees described in subdivision 16 of section 1204 of the public
24 authorities law and such sections shall expire on July 1, [2019] 2021
25 and nothing contained within these sections shall be construed to divest
26 the public employment relations board or any court of competent juris-

1 diction of the full power or authority to enforce any order made by the
2 board or such court prior to the effective date of this act; (c) the
3 provisions of section thirty-five of this act shall expire on March 31,
4 1987; and (d) provided, however, the commissioner of taxation and
5 finance shall have the power to enforce the provisions of sections two
6 through nine of this act beyond December 31, 1990 to enable such commis-
7 sioner to collect any liabilities incurred prior to January 1, 1991.

8 § 2. This act shall take effect immediately.

9 PART II

10 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
11 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-
12 sion 11 as separately amended by chapters 268 and 281 of the laws of
13 2016, are amended to read as follows:

14 3. With intent to prevent a peace officer, a police officer, prosecu-
15 tor as defined in subdivision thirty-one of section 1.20 of the criminal
16 procedure law, registered nurse, licensed practical nurse, public health
17 sanitarian, New York city public health sanitarian, sanitation enforce-
18 ment agent, New York city sanitation worker, a firefighter, including a
19 firefighter acting as a paramedic or emergency medical technician admin-
20 istering first aid in the course of performance of duty as such fire-
21 fighter, an emergency medical service paramedic or emergency medical
22 service technician, or medical or related personnel in a hospital emer-
23 gency department, a city marshal, a school crossing guard appointed
24 pursuant to section two hundred eight-a of the general municipal law, a
25 traffic enforcement officer, traffic enforcement agent, highway worker
26 as defined in section one hundred eighteen-a of the vehicle and traffic

1 law, motor vehicle inspector and motor carrier investigator as defined
2 in section one hundred eighteen-b of the vehicle and traffic law, or
3 employee of any entity governed by the public service law in the course
4 of performing an essential service, from performing a lawful duty, by
5 means including releasing or failing to control an animal under circum-
6 stances evincing the actor's intent that the animal obstruct the lawful
7 activity of such peace officer, police officer, prosecutor as defined in
8 subdivision thirty-one of section 1.20 of the criminal procedure law,
9 registered nurse, licensed practical nurse, public health sanitarian,
10 New York city public health sanitarian, sanitation enforcement agent,
11 New York city sanitation worker, firefighter, paramedic, technician,
12 city marshal, school crossing guard appointed pursuant to section two
13 hundred eight-a of the general municipal law, traffic enforcement offi-
14 cer, traffic enforcement agent, highway worker as defined in section one
15 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
16 tor and motor carrier investigator as defined in section one hundred
17 eighteen-b of the vehicle and traffic law, or employee of an entity
18 governed by the public service law, he or she causes physical injury to
19 such peace officer, police officer, prosecutor as defined in subdivision
20 thirty-one of section 1.20 of the criminal procedure law, registered
21 nurse, licensed practical nurse, public health sanitarian, New York city
22 public health sanitarian, sanitation enforcement agent, New York city
23 sanitation worker, firefighter, paramedic, technician or medical or
24 related personnel in a hospital emergency department, city marshal,
25 school crossing guard, traffic enforcement officer, traffic enforcement
26 agent, highway worker as defined in section one hundred eighteen-a of
27 the vehicle and traffic law, motor vehicle inspector and motor carrier
28 investigator as defined in section one hundred eighteen-b of the vehicle

1 and traffic law, or employee of an entity governed by the public service
2 law; or

3 11. With intent to cause physical injury to a train operator, ticket
4 inspector, conductor, signalperson, bus operator, station agent, station
5 cleaner [or], terminal cleaner, station customer assistant, person whose
6 official duties include the sale or collection of tickets, passes,
7 vouchers or other fare payment media for use on a train or bus, person
8 whose official duties include the maintenance, repair, inspection, trou-
9 bleshooting, testing or cleaning of a transit signal system, elevated or
10 underground subway tracks, transit station structure, train yard, reven-
11 ue train in passenger service, or a train or bus station or terminal, or
12 a supervisor of such personnel employed by any transit agency, authority
13 or company, public or private, whose operation is authorized by New York
14 state or any of its political subdivisions, a city marshal, a school
15 crossing guard appointed pursuant to section two hundred eight-a of the
16 general municipal law, a traffic enforcement officer, traffic enforce-
17 ment agent, highway worker as defined in section one hundred eighteen-a
18 of the vehicle and traffic law, motor vehicle inspector and motor carri-
19 er investigator as defined in section one hundred eighteen-b of the
20 vehicle and traffic law, prosecutor as defined in subdivision thirty-one
21 of section 1.20 of the criminal procedure law, sanitation enforcement
22 agent, New York city sanitation worker, public health sanitarian, New
23 York city public health sanitarian, registered nurse, licensed practical
24 nurse, emergency medical service paramedic, or emergency medical service
25 technician, he or she causes physical injury to such train operator,
26 ticket inspector, conductor, signalperson, bus operator, station agent,
27 station cleaner [or], terminal cleaner, station customer assistant,
28 person whose official duties include the sale or collection of tickets,

1 passes, vouchers or other fare payment media for use on a train or bus,
2 person whose official duties include the maintenance, repair,
3 inspection, troubleshooting, testing or cleaning of a transit signal
4 system, elevated or underground subway tracks, transit station struc-
5 ture, train yard, revenue train in passenger service, or a train or bus
6 station or terminal, or a supervisor of such personnel, city marshal,
7 school crossing guard appointed pursuant to section two hundred eight-a
8 of the general municipal law, traffic enforcement officer, traffic
9 enforcement agent, highway worker as defined in section one hundred
10 eighteen-a of the vehicle and traffic law, motor vehicle inspector and
11 motor carrier investigator as defined in section one hundred eighteen-b
12 of the vehicle and traffic law, prosecutor as defined in subdivision
13 thirty-one of section 1.20 of the criminal procedure law, registered
14 nurse, licensed practical nurse, public health sanitarian, New York city
15 public health sanitarian, sanitation enforcement agent, New York city
16 sanitation worker, emergency medical service paramedic, or emergency
17 medical service technician, while such employee is performing an
18 assigned duty on, or directly related to, the operation of a train or
19 bus, [including the cleaning of a train or bus station or terminal]
20 cleaning of a train or bus station or terminal or maintenance of a train
21 or bus station or terminal, signal system, elevated or underground
22 subway tracks, transit station structure, train yard or revenue train in
23 passenger service, or such city marshal, school crossing guard, traffic
24 enforcement officer, traffic enforcement agent, highway worker as
25 defined in section one hundred eighteen-a of the vehicle and traffic
26 law, motor vehicle inspector and motor carrier investigator as defined
27 in section one hundred eighteen-b of the vehicle and traffic law, prose-
28 cutor as defined in subdivision thirty-one of section 1.20 of the crimi-

1 nal procedure law, registered nurse, licensed practical nurse, public
2 health sanitarian, New York city public health sanitarian, sanitation
3 enforcement agent, New York city sanitation worker, emergency medical
4 service paramedic, or emergency medical service technician is performing
5 an assigned duty; or

6 § 2. The vehicle and traffic law is amended by adding two new
7 sections 118-a and 118-b to read as follows:

8 § 118-a. Highway worker. Any person employed by or on behalf of the
9 state, a county, city, town or village, a public authority, a local
10 authority, or a public utility company, or the agent or contractor of
11 any such entity, who has been assigned to perform work on a highway,
12 including maintenance, repair, flagging, utility work, construction,
13 reconstruction or operation of equipment on public highway infrastruc-
14 ture and associated rights-of-way in highway work areas, and shall also
15 include any flagperson as defined in section one hundred fifteen-b of
16 this article.

17 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
18 person employed by the New York State department of transportation who
19 has been assigned to perform inspections of any motor vehicles or inves-
20 tigation of any carriers regulated by the commissioner of transporta-
21 tion.

22 § 3. The vehicle and traffic law is amended by adding a new section
23 1221-a to read as follows:

24 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
25 cle shall enter or intrude into an active work zone except upon direc-
26 tion from a flagperson, police officer or other visibly designated
27 person in charge of traffic control or direction from a traffic control
28 device regulating entry therein. For purposes of this section, the term

1 "active work zone" shall mean the physical area of a highway, street or
2 private road on which construction, maintenance or utility work is being
3 conducted, which area is marked by any signs, channeling devices, barri-
4 ers, pavement markings, or work vehicles, and where workers are phys-
5 ically present.

6 2. A violation of subdivision one of this section shall constitute a
7 class B misdemeanor punishable by a fine of not less than two hundred
8 fifty dollars nor more than five hundred dollars, or by a period of
9 imprisonment not to exceed three months, or by both such fine and impri-
10 sonment.

11 § 4. The vehicle and traffic law is amended by adding a new section
12 1221-b to read as follows:

13 § 1221-b. Work zone safety and outreach. The governor's traffic safety
14 committee, upon consultation with the commissioner of transportation,
15 the superintendent of state police, the commissioner, the chairman of
16 the New York state thruway authority, local law enforcement agencies,
17 and representatives for contractors and laborers, shall design and
18 implement a public education and outreach program to increase motorist
19 awareness of the importance of highway work zone safety, to reduce the
20 number of work zone incidents, including speeding, unauthorized intru-
21 sions into work zones, and any conduct resulting in threats or injuries
22 to highway workers, and to increase and promote work zone safety.

23 § 5. Section 120.05 of the penal law is amended by adding a new subdi-
24 vision 11-d to read as follows:

25 11-d. With intent to cause physical injury to a terminal cleaner,
26 cabin cleaner, facilities cleaner, wheelchair assist employee, baggage
27 handler, skycap, ticket agent, customer services employee, security
28 guard, queue management employee, shuttle bus driver, or any employee

1 whose duties require him or her to work on the tarmac, employed by any
2 airport, airport authority or company, public or private, that performs
3 such services at an airport, he or she causes physical injury to such
4 terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist
5 employee, baggage handler, skycap, ticket agent, customer services
6 employee, security guard, queue management employee, shuttle bus driver,
7 or any employee whose duties require him or her to work on the tarmac,
8 while such employee is performing an assigned duty of, or directly
9 related to, such services at an airport in the state of New York; or
10 § 6. This act shall take effect immediately.

11 PART JJ

12 Section 1. The public authorities law is amended by adding a new
13 section 2985-a to read as follows:

14 § 2985-a. Payment of tolls under the Tolls by Mail program. 1. For
15 purposes of this section the following terms shall have the following
16 meanings:

17 (a) "cashless tolling facility" shall mean a toll highway, bridge or
18 tunnel facility that does not provide for the immediate on-site payment
19 in cash of a toll owed for the use of such facility;

20 (b) "owner" shall mean any person, corporation, partnership, firm,
21 agency, association, lessor or organization who, at the time of incur-
22 ring an obligation to pay a toll at a cashless tolling facility, and
23 with respect to the vehicle identified in the toll bill or notice of
24 violation: (i) is the beneficial or equitable owner of such vehicle; or
25 (ii) has title to such vehicle; or (iii) the registrant or co-registrant
26 of such vehicle which is registered with the department of motor vehi-

cles of this state or any other state, territory, district, province,
nation or other jurisdiction; or (iv) is subject to the limitations set
forth in subdivision ten of section twenty-nine hundred eighty-five of
this title, uses such vehicle in its vehicle renting and/or leasing
business; or (v) is a person entitled to the use and possession of a
vehicle subject to a security interest in another person;

(c) "toll bill" shall mean a notice sent to an owner notifying such
owner that the owner's vehicle has been used or operated in or upon a
cashless tolling facility and the owner has incurred an obligation to
pay a toll;

(d) "notice of violation" shall mean a notice sent to an owner notify-
ing such owner that a toll incurred at a cashless tolling facility by
the owner has not been paid at the place and time and in the manner
established for collection of such toll in the toll bill and that an
administrative violation fee is being imposed for each such unpaid toll;

(e) "billing cycle" shall mean a period not to exceed thirty calendar
days for purposes of consolidated toll billing;

(f) "initial billing cycle" shall mean a period not to exceed fifteen
calendar days after identifying the owner or other party responsible for
paying the toll for the purpose of consolidated toll billing for an
obligation to pay a toll for the first time at a cashless tolling facil-
ity in a six-month period; and

(g) "tolls by mail program" shall mean any program operated by or on
behalf of a public authority to send a toll bill to an owner whose vehi-
cle crosses a cashless tolling facility without an electronic device
that successfully transmits information through an electronic toll
collection system as defined in subdivision twelve of section twenty-
nine hundred eighty-five of this title.

1 2. In the case of an owner who incurs an obligation to pay a toll
2 under the Tolls by Mail program at a cashless tolling facility, a toll
3 bill shall be sent within six calendar days of the end of the initial
4 billing cycle and each subsequent billing cycle. Unless the owner
5 consents to have toll bills sent by electronic means of communication,
6 toll bills shall be sent to the owner by first class mail by or on
7 behalf of the public authority which operates such cashless tolling
8 facility. The owner shall have thirty days from the date of the toll
9 bill to pay the incurred toll. The toll bill shall include: (i) the
10 total amount of the incurred tolls due, (ii) the date by which payment
11 of the incurred tolls is due, (iii) an image of the license plate of the
12 vehicle being used or operated on the toll facility, (iv) notice of how
13 to dispute the tolls and the grounds for doing so, and (v) any other
14 information required by law or by the public authority. Each toll bill
15 shall identify the date, time, location, license plate number, and
16 state, territory, district, province, nation or other jurisdiction of
17 the license plate for each toll that has been incurred.

18 3. Any toll bill required to be sent pursuant to this section by first
19 class mail may instead be sent, with consent, by electronic means of
20 communication by or on behalf of the public authority, which consent can
21 be revoked at any time by the owner with notice to the public authority
22 or its agent. Such consent shall be deemed to be revoked when any toll
23 bill is unable to be delivered by electronic means of communication. It
24 shall be the sole responsibility of the owner to update the address used
25 for electronic means of communication to the owner. A manual or automat-
26 ic record of electronic communications prepared in the ordinary course
27 of business shall be adequate record of electronic notice.

1 4. In the case of an owner who does not pay a toll incurred under the
2 Tolls by Mail program on a cashless facility at the place and time and
3 in the manner established for collection of such toll in the toll bill,
4 a notice of violation shall be sent notifying the owner that the toll is
5 unpaid and an administrative violation fee is being imposed for each
6 such unpaid toll. The notice of violation shall be sent to the owner by
7 first class mail by or on behalf of the public authority which operates
8 such cashless tolling facility to an address supplied by the applicable
9 department of motor vehicles, the United States Postal Service National
10 Change of Address Service or the owner. The notice of violation shall
11 include: (i) the total amount of unpaid tolls and administrative
12 violation fees due, (ii) the date by which payment of the tolls and
13 administrative violation fees is due, and (iii) any other information
14 required by law or by the public authority. Each notice of violation
15 shall identify the date, time, location, license plate number, and
16 state, territory, district, province, nation or other jurisdiction of
17 the license plate for each unpaid toll that has been incurred.

18 5. Nothing in this section shall prohibit a public authority from
19 collecting any toll, fee, or penalty in the event that an owner does not
20 properly register a vehicle pursuant to the laws, rules and regulations
21 of this state, or any other state, territory, district, province, nation
22 or other jurisdiction.

23 6. Any owner or responsible party who incurs an obligation to pay a
24 toll under the Tolls by Mail program at a public authority's cashless
25 tolling facility shall have an option to receive text message or elec-
26 tronic mail alerts that a toll has been incurred. Such alerts shall be
27 provided to the owner no more than seventy-two hours after the owner or
28 responsible party is identified. Each public authority shall create an

1 online registration for text message or electronic mail alerts that a
2 toll has been incurred under the Tolls by Mail program at a cashless
3 tolling facility. In the event an owner chooses to receive text message
4 or electronic mail alerts of a toll incurred, it shall be the owner's
5 sole responsibility to provide and then update any mobile numbers and
6 any electronic mail addresses to which alerts are sent. A manual or
7 automatic record of electronic communications prepared in the ordinary
8 course of business shall be adequate record of electronic notice.

9 7. Any public authority that operates a cashless tolling facility
10 shall maintain a website and toll-free phone number for any person to
11 receive updated information on any tolls or fees which are outstanding.
12 Such website and phone number shall be included on any toll bill or
13 notice of violation sent by or on behalf of a public authority.

14 8. Any public authority which operates a cashless tolling facility
15 shall establish procedures for owners to dispute any tolls and violation
16 fees incurred in connection with toll bills. Such procedures shall be
17 prominently displayed on such public authority's toll bills, notices of
18 violation and website.

19 9. Any public authority which operates a cashless tolling facility
20 shall conspicuously and prominently display the amount of tolls for
21 passenger vehicles and violation fees at that facility on signage of a
22 reasonable size in a manner reasonably calculated to provide ample and
23 adequate notice.

24 10. Nothing in this section shall require a public authority to
25 perform any action or forebear from performing an action that would in
26 the public authority's sole discretion impair any covenant with the
27 holders of any of the public authority's bonds, notes or other obli-
28 gations.

1 11. This section shall not apply to the payment of the tolls by means
2 of an electronic toll device that transmits information through an elec-
3 tronic toll collection system as defined in subdivision twelve of
4 section twenty-nine hundred eighty-five of this title.

5 12. Every public authority which operates a cashless tolling facility
6 shall undertake a public awareness campaign regarding the use of and
7 process involved with the payment of tolls under the Tolls by Mail
8 program at cashless tolling facilities. Each public authority shall
9 provide for sufficient methods to obtain an electronic device for the
10 charging of tolls through an electronic toll collection system as
11 defined in subdivision twelve of section twenty-nine hundred eighty-five
12 of this title, including, in the New York state thruway authority's
13 discretion, making such devices available at service areas owned or
14 operated by the thruway authority.

15 § 2. This act shall take effect immediately.

16 PART KK

17 Section 1. Paragraph (a) of subdivision 17 of section 1005 of the
18 public authorities law, as amended by chapter 494 of the laws of 2011,
19 is amended to read as follows:

20 (a) As deemed feasible and advisable by the trustees, to (i) finance
21 [and], design, develop, construct, implement, provide and administer
22 energy-related projects, programs and services for itself, for any other
23 public entity, any independent not-for-profit institution of higher
24 education within the state, [and] any recipient of [the] economic devel-
25 opment power, expansion power, replacement power, preservation power,
26 high load factor power, municipal distribution agency power, [power for

1 jobs, and] or recharge New York power [programs administered] allocated
2 by the authority and any party located within the state under contract
3 with the authority to purchase power from the authority pursuant to this
4 title or any other law, and (ii) provide energy supply services for any
5 public entity. In establishing and providing high performance and
6 sustainable building programs and services authorized by this subdivi-
7 sion, the authority is authorized to consult standards, guidelines,
8 rating systems, and/or criteria established or adopted by other organ-
9 izations, including but not limited to the United States green building
10 council under its leadership in energy and environmental design (LEED)
11 programs, the green building initiative's green globes rating system,
12 and the American National Standards Institute. The source of any financ-
13 ing and/or loans provided by the authority for the purposes of this
14 subdivision may be the proceeds of notes issued pursuant to section one
15 thousand nine-a of this title, the proceeds of bonds issued pursuant to
16 section one thousand ten of this title, or any other available authority
17 funds.

18 § 2. Subparagraphs 2 and 3 of paragraph (b) of subdivision 17 of
19 section 1005 of the public authorities law, as added by chapter 477 of
20 the laws of 2009 and such subdivision as renumbered by section 16 of
21 part CC of chapter 60 of the laws of 2011, are amended to read as
22 follows:

23 (2) "Energy-related projects, programs and services" means projects,
24 programs and services related to energy efficiency and conservation
25 [projects and services], energy management, energy supply reliability,
26 clean energy technology [projects and services], and high performance
27 and sustainable building [programs and services], and the construction,

1 installation and/or operation of facilities or equipment done in
2 connection with any such projects, programs or services.

3 (3) "Energy services contract" or "contract" means a contract pursuant
4 to which the authority provides energy-related projects, programs and
5 services or energy supply services.

6 § 3. Paragraph (b) of subdivision 17 of section 1005 of the public
7 authorities law is amended by adding a new subparagraph 2-a to read as
8 follows:

9 (2-a) "Energy supply services" means services pursuant to which the
10 authority supplies energy, power and/or related credits or attributes to
11 a public entity, and includes the supply of any such energy products for
12 the purpose of meeting the energy-related needs of any municipal corpo-
13 ration and/or the residents of a municipal corporation under a community
14 choice aggregation program approved by the public service commission.

15 § 4. Paragraph (c) of subdivision 17 of section 1005 of the public
16 authorities law, as added by chapter 477 of the laws of 2009 and such
17 subdivision as renumbered by section 16 of part CC of chapter 60 of the
18 laws of 2011, is amended to read as follows:

19 (c) Any public entity is authorized to [enter into an energy services]
20 contract with the authority for energy-related projects, programs and
21 services and contract with the authority for energy supply services that
22 are authorized by this subdivision, provided that (i) the authority
23 issues and advertises written requests for proposals from third party
24 providers of goods and services in accordance with the authority's
25 procurement policies, procedures and/or guidelines, and (ii) the author-
26 ity shall not contract with a third party provider of goods and services
27 if such person is listed on a debarment list maintained and published in
28 accordance with New York law, as being ineligible to submit a bid on or

1 be awarded any public contract or subcontract with the state, any munic-
2 ipal corporation or public body. For the purpose of meeting the energy
3 needs of any municipal corporation and its residents under a community
4 choice aggregation program approved by the public service commission,
5 the authority is authorized to contract with any entity that has entered
6 into a written agreement with such municipal corporation to administer a
7 community choice aggregation program or to procure energy or related
8 products for such municipal corporation and/or its residents under the
9 community choice aggregation program.

10 § 5. Subparagraph (i) of paragraph (d) of subdivision 17 of section
11 1005 of the public authorities law, as added by chapter 477 of the laws
12 of 2009 and such subdivision as renumbered by section 16 of part CC of
13 chapter 60 of the laws of 2011, is amended to read as follows:

14 (d) (i) Notwithstanding any other provision of law to the contrary, any
15 energy services contract entered into by the authority with any public
16 entity: (1) may have a term of up to thirty-five years duration,
17 provided, however, that the duration of any such contract shall not
18 exceed the reasonably expected useful life of any facilities or equip-
19 ment constructed, installed or operated as part of such energy-related
20 projects, programs and services subject to such contract; and (2) in the
21 case of an energy services contract with any municipal corporation or
22 agency, shall contain the following clause: "This contract shall be
23 deemed executory only to the extent of the monies appropriated and
24 available for the purpose of the contract, and no liability on account
25 therefor shall be incurred beyond the amount of such monies. It is
26 understood that neither this contract nor any representation by any
27 public employee or officer creates any legal or moral obligation to
28 request, appropriate or make available monies for the purpose of the

1 contract." A school district or board of cooperative educational
2 services may only enter into an energy services contract with the
3 authority for such maximum term as is prescribed in the regulations
4 promulgated by the commissioner of education or the useful life of the
5 facilities or equipment being constructed, installed or operated, which-
6 ever is less.

7 § 6. Section 1005 of the public authorities law is amended by adding a
8 new subdivision 9-a to read as follows:

9 9-a. To design, finance, develop, construct, install, lease, operate
10 and maintain electric vehicle charging stations throughout the state for
11 use by the public.

12 § 7. This act shall take effect immediately.

13 PART LL

14 Section 1. Section 1005 of the public authorities law is amended by
15 adding a new subdivision 26 to read as follows:

16 26. (a) The authority is authorized, as deemed feasible and advisable
17 by the trustees, to plan, finance, construct, acquire, operate, improve
18 and maintain, either alone or jointly with one or more other entities,
19 transmission facilities for the purpose of transmitting power and energy
20 generated by renewable generation projects that are located in whole or
21 in part outside state jurisdictional waters which supplies electric
22 power and energy to the state of New York that the authority deems
23 necessary and desirable in order to: (i) provide, support and maintain
24 an adequate and reliable supply of electric power and energy in the
25 state of New York, and/or (ii) assist the state in meeting state ener-
26 gy-related goals and standards.

1 (b) The source of any financing and/or loans provided by the authority
2 for any of the actions authorized in paragraph (a) of this subdivision
3 may be the proceeds of notes issued pursuant to section one thousand
4 nine-a of this title, the proceeds of bonds issued pursuant to section
5 one thousand ten of this title, or any other available authority funds.

6 § 2. Section 1005 of the public authorities law is amended by adding a
7 new subdivision 27 to read as follows:

8 27. (a) Notwithstanding any other provision of this title, as deemed
9 feasible and advisable by the trustees, the authority is authorized to
10 undertake the following actions when it deems it necessary or desirable
11 to address the energy-related needs of any (i) authority customer, (ii)
12 public entity, or (iii) CCA community:

13 (1) supply power, energy, or related credits or attributes procured
14 through a competitive process, from competitive market sources, or
15 through negotiation on terms and conditions determined by the authority
16 to be reasonable, to any authority customer, public entity, or CCA
17 community; and

18 (2) (A) alone or jointly with one or more other entities, finance the
19 development of renewable energy generating projects that are located in
20 the state, including its territorial waters, and/or on property or in
21 waters under the jurisdiction or regulatory authority of the United
22 States, (B) purchase power, energy or related credits or attributes
23 produced from such renewable energy generating projects, and (C) allo-
24 cate and sell any such products to any authority customer, to any public
25 entity, and, for the purpose of meeting the energy-related needs of any
26 CCA community, to any municipal corporation that supplies electricity to
27 a CCA community or any other entity that has entered into a written

1 agreement with a CCA community to administer a CCA program or supply
2 electricity to a CCA community.

3 (b) Any public entity is hereby authorized to contract with the
4 authority for the purchase of power, energy, or related credits or
5 attributes which the authority is authorized to supply under paragraph
6 (a) of this subdivision.

7 (c) The source of any financing and/or loans provided by the authority
8 for any of the actions authorized in paragraph (a) of this subdivision
9 may be the proceeds of notes issued pursuant to section one thousand
10 nine-a of this title, the proceeds of bonds issued pursuant to section
11 one thousand ten of this title, or any other available authority funds.

12 (d) The authority shall complete and submit a report, on or before
13 January thirty-first, two thousand twenty, and annually thereafter on
14 those actions undertaken pursuant to this subdivision to the governor,
15 the speaker of the assembly, the temporary president of the senate, the
16 chair of the assembly ways and means committee, the chair of the senate
17 finance committee, the chair of the assembly energy committee and the
18 chair of the senate energy and telecommunications committee. Such
19 report, at a minimum, shall include: (i) a description of all renewable
20 energy generating projects developed in connection with the authori-
21 zation provided in this subdivision, including the total number of
22 projects developed, the renewable energy resource for each project, the
23 location of each project, and the nameplate generating capacity of each
24 project; (ii) identification of all public entities that have purchased
25 renewable power, energy, or related credits or attributes from the
26 authority that are derived from renewable energy generating projects
27 developed in connection with the authorization provided in this subdivi-
28 sion, including the projects from which such products were derived;

(iii) identification of all authority customers that have purchased renewable power, energy, or related credits or attributes from the authority that are derived from renewable energy generating projects developed in connection with the authorization provided in this subdivision, including the projects from which such products were derived; and (iv) the aggregate amount of increased renewable power and energy generation developed in connection with the authorization in this subdivision.

(e) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or related credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(v) "Renewable energy resources" means solar power, wind power, hydro-electric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(vi) "Renewable energy generating project" means a project that generates power and energy by means of renewable energy resources, or that stores and supplies power and energy generated by means of renewable

energy resources, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence hydroelectric project or Niagara hydroelectric project.

(vii) "State" means the state of New York.

§ 3. Nothing in this act is intended to limit, impair, or affect the legal authority of the Power Authority of the State of New York under any other provision of this title.

§ 4. This act shall take effect immediately.

PART MM

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a parks retail stores fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys received from private entities and individuals from retail operations at state parks, recreational facilities and historic sites operated by the office of parks, recreation and historic preservation.

2. Moneys within the parks retail stores fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses relating to the operation of retail stores and in

1 support of the sale of retail goods at state parks, recreational facili-
2 ties and historic sites.

3 § 2. The state finance law is amended by adding a new section 99-gg to
4 read as follows:

5 § 99-gg. Golf fund. 1. Notwithstanding sections eight, eight-a and
6 seventy of this chapter and any other provision of law, rule, regulation
7 or practice to the contrary, there is hereby established in the joint
8 custody of the state comptroller and the commissioner of tax and finance
9 a golf fund, which shall be classified by the state comptroller as an
10 enterprise fund, and which shall consist of all moneys collected from
11 private entities and individuals for the use of state-owned golf cours-
12 es, any other miscellaneous fees associated with the use of such golf
13 courses, and sale of retail goods and services at state owned golf
14 courses.

15 2. Moneys within the golf fund shall be made available to the commis-
16 sioner of parks, recreation and historic preservation for services and
17 expenses of the office of parks, recreation and historic preservation
18 relating to the direct maintenance and operation of state owned golf
19 courses, and in support of the sale of retail goods and services at
20 state owned golf courses.

21 § 3. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2019.

23 PART NN

24 Section 1. Subdivision 7 of section 2611 of the public authorities
25 law, as amended by section 3 of part C of chapter 60 of the laws of
26 2012, is amended to read as follows:

1 7. To enter into contracts, leases and subleases and to execute all
2 instruments necessary or convenient for the conduct of authority busi-
3 ness, including agreements with the park district and any state agency
4 which administers, owns or supervises any olympic facility or Belleayre
5 Mountain ski center, as provided in sections twenty-six hundred twelve
6 and twenty-six hundred fourteen of this title, and including contracts
7 or other agreements to plan, prepare for and host olympic or other
8 national or international games or events where such contracts or agree-
9 ments would obligate the authority to defend, indemnify and/or insure
10 third parties in connection with, arising out of, or relating to such
11 games or events, such authority to be limited by the amount of any
12 lawful appropriation for that purpose. With respect to the two thousand
13 twenty-three world university games, the amount of such appropriation
14 shall be no less than sixteen million dollars;

15 § 2. This act shall take effect immediately.

16 PART 00

17 Section 1. Clauses 6 and 7 of subparagraph (B) of paragraph (i) of
18 subdivision (b) of section 349-g of the highway law, as added by chapter
19 78 of the laws of 2018, are amended to read as follows:

20 6. Within the waters of Flushing Bay South 45°-38'-00" East, a
21 distance of 1092.05' to a point in the waters of Flushing Bay, said
22 point also being the westerly line of Tax Map Lot 65 Block [789] 1789,
23 thence;

24 7. Along the westerly line of same South 05°-02'-52" East, a distance
25 of 456.35' to a point in the westerly line of Tax Map Lot 65 Block [789]
26 1789, thence;

1 § 2. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after chapter 78 of the laws
3 of 2018 took effect; and, provided, however, that the amendments made to
4 section 349-g of the social services law by section one of this act
5 shall not affect the repeal of such section and shall be deemed repealed
6 therewith.

7 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
8 sion, section or part of this act shall be adjudged by any court of
9 competent jurisdiction to be invalid, such judgment shall not affect,
10 impair, or invalidate the remainder thereof, but shall be confined in
11 its operation to the clause, sentence, paragraph, subdivision, section
12 or part thereof directly involved in the controversy in which such judg-
13 ment shall have been rendered. It is hereby declared to be the intent of
14 the legislature that this act would have been enacted even if such
15 invalid provisions had not been included herein.

16 § 3. This act shall take effect immediately provided, however, that
17 the applicable effective date of Parts A through OO of this act shall be
18 as specifically set forth in the last section of such Parts.