

Pursuant to the authority vested in the Cannabis Control Board by Sections 13, 16, 16-a, 17, 89, 132, and 133 of the Cannabis Law and part UU of Chapter 56 of the Laws of 2023, Chapter II of Subtitle B of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby adding a new section 133.23 to be effective upon filing with the Department of State, to read as follows:

Section 133.23 Actions Relating to Unlicensed Activities.

(a) The Office may issue a notice of violation and order to cease unlicensed activity to any person, as defined in section 40-a of the Cannabis Law, who is cultivating, processing, distributing or selling cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such in this state, or engaging in an indirect retail sale, without obtaining the appropriate registration, license, or permit therefor.

(b) In the event that the Office issues a notice of violation and order to cease unlicensed activity to a person:

(1) that person must cease all cannabis or cannabinoid hemp related activity as described in subdivision (a) of this section;

(2) the Office may seize any cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, found in the possession of a person engaged in the conduct described in subdivision (a) of this section;

(3) the Office may affix a copy of such notice of violation and order to cease unlicensed activity on the front window, door, or exterior wall of the location where such activity is taking

place. The notice and order shall be within five feet of the front door or other opening to such location where customers enter from the street, at a vertical height no less than four feet and no more than six feet from the ground or floor. When an establishment does not have a direct entrance from the street, the person shall permit the Office to post such notice of violation and order to cease unlicensed activity at its immediate point of entry in a place where potential customers or members of the public are likely to see it;

(4) such notice of violation and order to cease unlicensed activity shall not be removed except when authorized by the Office. Any removal of such notice of violation and order to cease unlicensed activity shall constitute a violation of these regulations and shall be punishable by a fine of up to \$5,000 in accordance with subdivision 1 of section 16 of the Cannabis Law;

(5) the person served with such notice of violation and order to cease unlicensed activity shall also permit the Office to affix one or more warning stickers at or near the front door or other opening to such location where customers enter from the street advising the public that the business is ordered to stop the unlawful activity and of the public health and safety concerns relating to illicit cannabis;

(6) such warning sticker shall not be removed except when authorized by the Office. Any removal of the warning sticker shall constitute a violation of these regulations and shall be punishable by a fine of up to \$5,000 in accordance with subdivision 1 of section 16 of the Cannabis Law.

(c) The Office may initiate an administrative proceeding to enforce the order to cease the unlicensed activity and order the financial penalty that the Office assessed for the violation. The

proceeding will subject to articles 3 and 4 of the State Administrative Procedure Act and sections 133.8(a) and (b), 133.9, 133.10(a) and (c), 133.11, 133.12, 133.13(a), 133.14, and 133.15 of this Part. Any references to “licensee” in such sections shall be read to apply to persons subject to enforcement pursuant to this section.

(1) Notwithstanding subdivision (c) of section 113.8 of this Title and pursuant to subdivision 3 of section 17 of the Cannabis Law, the notice of hearing may provide for a hearing date on less than fifteen days’ notice.

(2) The Office may issue subpoenas pursuant to the Civil Practice Law and Rules.

(3) The parties may enter a stipulation for the resolution of any and all issues at any time prior to issuance of a decision by the assigned administrative law judge. The Office may issue a consent order upon agreement or stipulation of the parties. A consent order shall have the same force and effect as an order issued after a hearing.

(4) After the hearing, the administrative law judge shall issue a decision based on findings of fact and conclusions of law. Such decision shall be final and binding when issued.

(5) All parties shall have the right to appeal the decision of the administrative law judge by the commencement of an Article 78 proceeding.