AN ACT
RELATING TO FOOD AND DRUGS - TAXATION AND REGULATION OF MARIJUANA

Introduced By: Representatives Slater, Newberry, Ajello, Blazejewski, and Williams

Date Introduced: March 04, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby amended by adding thereto the following chapter:

CHAPTER 28.9
MARIJUANA REGULATION, CONTROL, AND TAXATION ACT

21-28.9-1. Short title. -- This chapter shall be known and may be cited as the "Marijuana Regulation, Control, and Taxation Act."

21-28.9-2. Legislative findings. -- The general assembly hereby finds and declares that:

(1) Prohibiting the cultivation and sale of marijuana to adults has proven to be ineffective, unfair, and costly policy for the state of Rhode Island. In the absence of a legal, tightly regulated market, an illicit marijuana industry has thrived, undermining the public health and safety of Rhode Islanders.

(2) Virtually every objective, scientific study has found marijuana to be less harmful to the consumer and society than alcohol. There is no evidence that marijuana use contributes to criminality or violence, but the policy of marijuana prohibition, which leaves criminals in control of the market, does.

(3) Colorado, Washington, Oregon, and Alaska have each enacted measures to regulate marijuana in a manner similar to alcohol. These states have chosen to replace illegal marijuana dealers with legitimate, tax-paying businesses.

(4) In Colorado, after more than a year of allowing licensed retail stores to sell small
amounts of marijuana to adults, there is little evidence that regulating marijuana like alcohol has
cased any significant, adverse social harms. Colorado is as healthy and safe today as it was
before enacting laws to regulate and tax marijuana.

(5) Recognizing that a majority of Rhode Islanders support ending the failed policy of
marijuana prohibition, Rhode Island joins Colorado and other states in replacing marijuana
prohibition with regulation and taxation.

21-28.9-3. Definitions. -- For purposes of this chapter:

(1) "Department" means the state of Rhode Island department of business regulation.

(2) "Marijuana" means all parts of the plant of the genus cannabis, whether growing or
not; the seeds thereof; the resin extracted from any part of the plant; and every compound,
manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not
include hemp, the mature stalks of the plant, fiber produced from the stalks, oil or cake made
from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
preparation of the mature stalks (except the resin extracted from it), fiber, oil, or cake, or the
sterilized seed of the plant that is incapable of germination.

(3) "Marijuana cultivation facility" means an entity that is registered pursuant to chapter
28.10 of title 21, to be exempt from state penalties for cultivating, preparing, packaging, and
selling marijuana to a retailer or another marijuana cultivation facility, but not for manufacturing
or selling marijuana products or selling marijuana to the general public.

(4) "Marijuana paraphernalia" means equipment, products, and materials which are used
or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
compounding, converting, producing, processing, preparing, testing, analyzing, packaging,
repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing
marijuana into the human body.

(5) "Marijuana products" means concentrated marijuana and products that are comprised
of marijuana and other ingredients that are intended for use or consumption, such as, but not
limited to, edible products, ointments, and tinctures.

(6) "Public place" means any street, alley, park, sidewalk, public building other than
individual dwellings, or any place of business or assembly open to or frequented by the public,
and any other place to which the public has access.

(7) "Retailer" means an entity that is registered pursuant to chapter 28.10 of title 21 to be
exempt from state penalties for purchasing marijuana from marijuana cultivation facilities,
manufacturing marijuana products and marijuana paraphernalia, and selling marijuana, marijuana
products, and marijuana paraphernalia to customers who are twenty-one (21) years of age or
older.

(8) "Safety compliance facility" means an entity that is registered pursuant to chapter 28.10 of title 21 to be exempt from state penalties for testing marijuana and marijuana products for potency and contaminants.

(9) "Smoke" means to heat to at least the point of combustion, causing plant material to burn. It does not include vaporizing, which means heating below the point of combustion and resulting in a vapor or mist.

(10) "State prosecution" means prosecution initiated or maintained by the state of Rhode Island or an agency or political subdivision of the state of Rhode Island.

21-28.9-4. Exempt activities. -- Except as otherwise provided in this chapter:

(1) A person who is twenty-one (21) years of age or older is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:

(i) Actually and constructively using, obtaining, purchasing, transporting, or possessing one ounce (1 oz) or less of marijuana, not including hashish;

(ii) Actually and constructively using, obtaining, purchasing, transporting, or possessing marijuana products, including up to five grams (5g) or less of hashish, sixteen ounces (16oz) of marijuana-infused product in solid form, and seventy-two ounces (72oz) of marijuana-infused product in liquid form;

(iii) Controlling any premises or vehicle where persons who are twenty-one (21) years of age or older possess, process, or store amounts of marijuana and marijuana products that are legal under state law under paragraphs (1)(i) and (1)(ii) of this section;

(iv) Using, obtaining, manufacturing, producing, purchasing, transporting, or possessing, actually or constructively, marijuana paraphernalia;

(v) Selling, delivering, or transferring, marijuana seeds to a marijuana establishment or to a person who is twenty-one (21) years of age or older;

(vi) Selling, delivering, or transferring, marijuana paraphernalia to marijuana establishments or persons who are twenty-one (21) years of age or older;

(vii) Giving away, without consideration, the amounts of marijuana and marijuana products that are legal under state law under paragraphs (1)(i) and (1)(ii) of this section if the recipient is a person who is twenty-one (21) years of age or older;

(viii) Transferring or delivering marijuana products or up to one ounce (1oz) of marijuana to a safety compliance facility;

(ix) Aiding and abetting another person who is twenty-one (21) years of age or older in
the actions allowed under this chapter;
(x) Cultivating, possessing, growing, processing, or transporting no more than two (2) marijuana plants, with one or fewer being a mature, flowering plant;
(xi) Controlling any premises where other persons twenty-one (21) years of age or older cultivate marijuana plants, with the total number of mature, flowering plants not exceeding three in any dwelling unit unless a greater amount is allowed pursuant to chapter 28.6 of title 21;
(xii) Assisting with the cultivation of marijuana plants that are cultivated at the same location for persons twenty-one (21) years of age or older, with the total number of mature, flowering plants not exceeding three in any dwelling unit; and
(xiii) Any combination of the acts described within paragraphs (1)(i) to (1)(xii) of this section, inclusive.
(2) Except as provided in this chapter and chapter 28.10 of title 21, a retailer or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, principal officer, partner, board member, employee, or agent of a retailer is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:
(i) Transporting or possessing, actually or constructively, marijuana, including seedlings or cuttings, that was purchased from a marijuana cultivation facility or a retailer;
(ii) Manufacturing, possessing, or producing marijuana products;
(iii) Transporting or possessing, actually or constructively, marijuana products that were purchased from a retailer;
(iv) Obtaining or purchasing marijuana from a marijuana cultivation facility or marijuana and marijuana products from a retailer;
(v) Selling, delivering, or transferring marijuana or marijuana products to another retailer;
(vi) Manufacturing, possessing, producing, obtaining, or purchasing marijuana paraphernalia;
(vii) Selling, transferring, or delivering marijuana, including seedlings or cuttings, marijuana products, or marijuana paraphernalia to any person who is twenty-one (21) years of age or older;
(viii) Transferring or delivering marijuana or marijuana products to a safety compliance facility;
(ix) Controlling any premises or vehicle where marijuana, marijuana products and marijuana paraphernalia is possessed, sold, or deposited in a manner that is not in conflict with this chapter or department regulations; and
(x) Any combination of the acts described within paragraphs (2)(i) to (2)(ix) of this section, inclusive.

(3) Except as provided in this chapter and chapter 28.10 of title 21, a marijuana cultivation facility or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, principal officer, partner, board member, employee, or agent of a marijuana cultivation facility is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:

(i) Cultivating, packing, processing, transporting, or manufacturing marijuana, but not marijuana products;

(ii) Transporting or possessing marijuana that was produced by the marijuana cultivation facility or another marijuana cultivation facility;

(iii) Transporting or possessing marijuana seeds;

(iv) Possessing, transporting, or producing marijuana paraphernalia;

(v) Selling, delivering, or transferring marijuana to a retailer or a marijuana cultivation facility;

(vi) Purchasing marijuana from a marijuana cultivation facility;

(vii) Purchasing marijuana seeds from a person who is twenty-one (21) years of age or older;

(viii) Delivering or transferring marijuana to a safety compliance facility;

(ix) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is possessed, manufactured, sold, or deposited; and

(x) Any combination of the acts described within paragraphs (3)(i) to (3)(ix) of this section, inclusive.

(4) Except as provided in this chapter and chapter 28.10 of title 21, a safety compliance facility or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, principal officer, owner, partner, board member, employee, or agent of a safety compliance facility shall not be subject to state prosecution; search, except by the department pursuant to § 21-28.10-20; seizure; or penalty in any manner or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity for the following acts:

(i) Acquiring, transporting, storing, or possessing marijuana or marijuana products;

(ii) Returning marijuana and marijuana products to marijuana cultivation facilities and retailers, or, if the quantity is no more than the amounts allowed under § 21-28.9-4, to individuals.
(iii) Delivering marijuana to other safety compliance facilities;

(iv) Receiving compensation for analytical testing, including for contaminants or potency; and

(iv) Any combination of the acts described within paragraphs (4)(i) through (4)(iv) of this section, inclusive.

(5) The acts listed in subsections (1) through (5) of this section, when undertaken in compliance with the provisions of this chapter, are lawful under Rhode Island law.

(6) Except as otherwise provided in subsection (7), in a prosecution for selling, transferring, delivering, giving, or otherwise furnishing marijuana, marijuana products or marijuana paraphernalia to any person who is under twenty-one (21) years of age, it is a complete defense if:

(i) The person who sold, gave, or otherwise furnished marijuana, marijuana products, or marijuana paraphernalia to a person who is under twenty-one (21) years of age was a retailer or was acting in his or her capacity as an owner, employee, or agent of a retailer at the time the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to the person; and

(ii) Before selling, giving, or otherwise furnishing marijuana, marijuana products or marijuana paraphernalia to a person who is under twenty-one (21) years of age, the person who sold, gave, or otherwise furnished the marijuana or marijuana paraphernalia, or a staffer or agent of the retailer, was shown a document which appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign government and which indicated that the person to whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished was twenty-one (21) years of age or older at the time the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to the person.

(7) The complete defense set forth in subsection (6) of this section does not apply if:

(i) The document which was shown to the person who sold, gave, or otherwise furnished the marijuana, marijuana products, or marijuana paraphernalia was counterfeit, forged, altered, or issued to a person other than the person to whom the marijuana, marijuana products or marijuana paraphernalia was sold, given, or otherwise furnished; and

(ii) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, altered, or issued to a person other than the person to whom the marijuana, marijuana products, or marijuana paraphernalia was sold, given, or otherwise furnished.

21-28.9-5. Authorized activities. -- (a) Any person who is twenty-one (21) years of age
or older is authorized to manufacture, produce, use, obtain, purchase, transport, or possess, actually or constructively, marijuana paraphernalia.

(b) Any person who is twenty-one (21) years of age or older is authorized to distribute or sell marijuana paraphernalia to marijuana establishments or persons who are twenty-one (21) years of age or older.

21-28.9-6. Public or unsecured cultivation of marijuana - Penalty. -- The manufacture or cultivation of two (2) or fewer marijuana plants by any person who is twenty-one (21) years of age or older in a location that is contrary to this subsection is a misdemeanor punishable by a fine of up to one thousand dollars ($1,000), up to ten (10) days in jail, or both.

(1) Cultivation shall not occur in a location where the marijuana plants are subject to public view, including from another private property, without the use of binoculars, aircraft, or other optical aids.

(2) Marijuana must be cultivated indoors in an enclosed, locked, location.

(3) Cultivation may only occur on property lawfully in possession of the cultivator.

(4) If one or more persons under twenty-one (21) years of age live in or are guests at the property where marijuana is cultivated, reasonable precautions must be taken to prevent their access to marijuana plants. For purposes of illustration and not limitation, cultivating marijuana in a locked closet, room, or fully enclosed area to which the person or persons under twenty-one (21) years of age do not possess a key, constitutes reasonable precautions.

21-28.9-7. Activities not exempt. -- The provisions of this chapter do not exempt any person from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for, nor may he or she establish an affirmative defense based on this chapter to charges arising from, any of the following acts:

(1) Driving, operating, or being in actual physical control of a vehicle or a vessel under power or sail while impaired by marijuana or marijuana products; or

(2) Possessing marijuana or marijuana products if the person is a prisoner; or

(3) Possessing marijuana or marijuana products in any local detention facility, county jail, state prison, reformatory, or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

21-28.9-8. Smoking marijuana shall be prohibited in all public places. -- (a) A person who smokes marijuana in an indoor public place shall be guilty of a petty misdemeanor, and may be punished as follows:

(1) By a fine of not more than two hundred fifty dollars ($250), imprisonment for a term not exceeding ten (10) days, or both, for the first violation;
(2) By a fine of not more than five hundred dollars ($500), imprisonment for a term not exceeding thirty (30) days, or both, for the second or subsequent violation.

(b) A person who smokes marijuana in an outdoor public place shall be liable for a civil penalty of one hundred fifty dollars ($150).

(c) Municipalities may impose additional fines equivalent to state fines for the consumption of alcohol in an outdoor public place.

21-28.9-9. Places of employment. -- The provisions of this chapter do not require employers to accommodate the use or possession of marijuana, or being under the influence of marijuana, in a place of employment.

21-28.9-10. Private property. -- (a) Except as provided in this section, the provisions of this chapter do not require any person, corporation, or any other entity that occupies, owns, or controls a property to allow the consumption, cultivation, display, or transfer of marijuana on or in that property.

(b) Except as provided in this section, in the case of the rental of a residential dwelling unit governed by chapter 18 of title 34, a landlord may not prohibit the consumption of marijuana by non-smoked means, the display of marijuana, or the transfer without compensation of marijuana, if it is done within a dwelling unit and is not visible from outside of the individual residential dwelling unit. A landlord may prohibit the consumption, display, and transfer of marijuana by a roomer as defined in § 34-18-11.

21-28.9-11. False age representation. -- Any person who falsely represents himself or herself to be twenty-one (21) years of age or older in order to obtain any marijuana, marijuana products, or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.

21-28.9-12. Medical use. -- Nothing contained herein shall be construed to repeal or modify any law concerning the medical use of marijuana, including chapter 28.6 of title 21, or tetrahydrocannabinol in other forms, such as Marinol.

SECTION 2. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby amended by adding thereto the following chapter:

CHAPTER 28.10
TAXATION AND REGULATION OF MARIJUANA

21-28.10-1. Definitions. -- For purposes of this chapter:

(1) "Department" means the state of Rhode Island department of business regulation.

(2) "Marijuana" means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not
include hemp, the mature stalks of the plant, fiber produced from the stalks, oil or cake made
from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the
sterilized seed of the plant that is incapable of germination.

(3) "Marijuana cultivation facility" means an entity that is registered pursuant to chapter
21-28.10, to be exempt from state penalties for cultivating, preparing, packaging, and selling
marijuana to a retailer or another marijuana cultivation facility, but not for manufacturing or
selling marijuana products or selling marijuana to the general public.

(4) "Marijuana establishment" means a marijuana cultivation facility, retailer, or safety
compliance facility.

(5) "Marijuana products" means concentrated marijuana and products that are comprised
of marijuana and other ingredients and are intended for use or consumption, such as, but not
limited to, edible products, ointments, and tinctures.

(6) "Retailer" means an entity that is registered pursuant to chapter 28.10 of title 21, to be
exempt from state penalties for purchasing marijuana from marijuana cultivation facilities,
manufacturing marijuana products and marijuana paraphernalia, and selling marijuana, marijuana
products, and marijuana paraphernalia to customers who are twenty-one (21) years of age or
older.

(7) "Safety compliance facility" means an entity that is registered pursuant to chapter
28.10 of title 21, to be exempt from state penalties for testing marijuana for potency and
contaminants.

(8) "State prosecution" means prosecution initiated or maintained by the state of Rhode
Island or an agency or political subdivision of the state of Rhode Island.

21-28.10-2. Retailer registration. — Except as otherwise provided in § 21-28.10-5 of this
chapter:

(1) A person or an entity may apply, in accordance with the provisions of this chapter and
the regulations adopted pursuant thereto, for the issuance of a registration exempting the entity
from state prosecution and penalties for operating as a retailer pursuant to the provisions of this
chapter.

(2) Each applicant for a retailer registration shall submit application materials required by
the department and a non-refundable fee in an amount determined by the department, not to
exceed five thousand dollars ($5,000).

(3) Five (5) months after the effective date of this chapter, authorized representatives of
properly registered compassion centers may submit a statement of intent to operate as a marijuana
Six (6) months after the effective date of this chapter, the department shall issue a retailer registration to the authorized representative of a properly registered compassion center under § 21-28.6-12 if the compassion center is in compliance with all applicable rules and regulations and the authorized representative of the compassion center submitted a statement to the department notifying it of his or her intent to operate as a retailer. Any retailer registration issued pursuant to this subsection shall be considered a business registration separate and distinct from the registration issued under chapter 28.6 of title 21.

(4) No later than (17) months after the effective date of this chapter, the department shall begin accepting applications for retailer registrations, including from applicants who are not authorized representatives of properly registered compassion centers. By eighteen (18) months after the effective date of this chapter, the department shall have issued at least ten (10) retailer registrations, provided a sufficient number of qualified applicants exist. The department shall implement a competitive scoring process to determine to which applicants to grant registrations, which may be varied to account for geographic distribution, population density, or both. The scoring system shall take into account the applicant and managing officers' applicable experience, training, and expertise; the applicant’s plan for security and diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the applicant and managing officers have controlled or managed; and the suitability of the proposed location. A compassion center registered under §21-28.6-12 shall be given priority over other applicants in any competitive application process.

(5) Two (2) years after the effective date of this chapter, and every twelve (12) months thereafter, the department shall determine if there is a sufficient number of retailer registrations to meet demand and shall issue additional retailer registrations if necessary. At no time after two (2) years after the effective date of this chapter shall there be fewer than ten (10) retailer registrations issued at any given time, provided a sufficient number of qualified applicants exists.

(6) The fee for the initial issuance of a registration as a retailer is ten thousand dollars ($10,000).

(7) A registration as a retailer may be renewed annually for a ten thousand dollar ($10,000) fee. The renewal application may be submitted up to one hundred twenty (120) days before the expiration of the retailer registration.

(8) Nothing in this section shall prohibit an entity registered as a retailer or seeking
retailer registration from also holding a marijuana cultivation facility registration or seeking
registration as a marijuana cultivation facility under § 21-28.10-3.

(9) Nothing in this section shall prohibit an entity registered as a retailer or seeking
retailer registration from also holding a compassion center registration or seeking registration as a
compassion center under § 21-28.6-12.

21-28.10-3. Marijuana cultivation facility registration. – Except as otherwise provided
by § 21-28.10-5:

(1) An entity may apply, in accordance with the provisions of this chapter and the
regulations adopted pursuant thereto, for the issuance of a registration exempting the entity from
state prosecution and penalties for operating as a marijuana cultivation facility pursuant to the
provisions of this chapter.

(2) Each applicant for a marijuana cultivation facility registration shall submit application
materials required by the department and a non-refundable fee in an amount determined by the
department, not to exceed five thousand dollars ($5,000).

(3) Three (3) months after the effective date of this chapter, authorized representatives of
properly registered compassion centers may submit a statement of intent to operate a marijuana
cultivation facility. One hundred (100) days after the effective date of this chapter, the department
shall issue a marijuana cultivation facility registration to the authorized representative of a
properly registered compassion center under § 21-28.6-12 if the compassion center is in
compliance with all applicable rules and regulations and the authorized representative of the
compassion center submitted a statement to the department notifying it of his or her intent to
operate as a marijuana cultivation facility. Any marijuana cultivation facility registration issued
pursuant to this subsection shall be considered a business registration separate and distinct from
the registration issued under §21-28.6-12.

(4) No later than twelve (12) months after the effective date of this chapter, and at least
once every six (6) months thereafter, the department shall accept and process applications for
additional marijuana cultivation facility registrations if it is determined the existing marijuana
cultivation facilities are unable to meet demand.

(5) If the department decides to accept additional applications for marijuana cultivation
registrations in order to meet demand, and if more qualifying applicants apply than the
department will register, the department shall implement a competitive scoring process to
determine to which applicants to grant registrations. The scoring system shall take into account
the applicant and managing officers’ applicable experience, training, and expertise; the
applicant’s plan for security and diversion prevention; any criminal, civil, or regulatory issues
encountered by other entities the applicant and managing officers have controlled or managed; and the suitability of the proposed location. A compassion center that cultivates marijuana and is registered under §21-28.6-12 shall be given priority over other applicants in any competitive application process.

(6) Each marijuana cultivation facility shall pay a fee for the initial issuance of a registration and for an annual renewal in an amount determined by the department. The department shall set a tiered system of fees, which vary depending on the size of the marijuana cultivation facility. The highest fee may not exceed twenty thousand ($20,000) per year. Under approval of the department, marijuana cultivation facility registrants may operate up to two (2) structures for the secure cultivation of marijuana at locations registered with the department.

(7) A registration as a marijuana cultivation facility may be renewed annually. The renewal application may be submitted up to one hundred twenty (120) days before the expiration of the marijuana cultivation facility registration.

(8) If at any time beginning eighteen (18) months after the effective date of this chapter the department has failed to begin issuing marijuana cultivation facility registrations or has ceased issuing marijuana cultivation facility registrations in accordance with this chapter, a marijuana cultivation facility registration shall not be required to operate as a marijuana cultivation facility for any person or entity that is properly registered as a compassion center under § 21-28.6-12.

(9) Nothing in this section shall prohibit an entity registered as a marijuana cultivation facility or seeking marijuana cultivation facility registration from also holding a retailer registration or seeking registration as a retailer under § 21-28.10-2.

(10) Nothing in this section shall prohibit an entity registered as a marijuana cultivation facility or seeking marijuana cultivation facility registration from also holding a compassion center registration or seeking registration as a compassion center under § 21-28.6-12.

21-28.10-4, Safety compliance facility registration. – Except as otherwise provided in § 21-28.10-5:

(1) An entity may apply, in accordance with the provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a registration exempting the entity from state prosecution and penalties for operating as a safety compliance facility pursuant to the provisions of this chapter.

(2) Each applicant for a safety compliance facility registration shall submit application materials required by the department and a non-refundable fee in an amount determined by the department, not to exceed five thousand dollars ($5,000).
(3) If a qualified applicant exists, the department shall grant a two (2) year registration to
at least two (2) safety compliance facilities within one year of the effective date of this chapter,
provided that each facility pays a five thousand dollar ($5,000) fee. If more qualifying applicants
apply than the department will register, the department shall implement a competitive scoring
process to determine to which applicants to grant registrations, which may be varied for
geographic distribution. The scoring system shall take into account the applicant and managing
officers’ applicable experience, training, and expertise; the applicant’s plan for security and
diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the
applicant and managing officers controlled or managed; the applicant’s plan for services; and the
suitability of the proposed location.

(4) If at any time after two (2) years after the effective date of this chapter, there are
fewer than two (2) valid safety compliance facility registrations, the department shall accept and
process applications for safety compliance facility registrations. In addition, the department may,
at its discretion, grant additional safety compliance facility registrations.

(5) A safety compliance facility registration may be renewed biennially for a five
thousand dollar ($5,000) fee. The renewal application may be submitted up to one hundred
twenty (120) days before the expiration of the registration.

21-28.10-5. Ineligibility for registration. A marijuana establishment may not operate,
and a prospective marijuana establishment may not apply for a registration, if any of the
following are true:

(1) The entity would be located within one thousand feet (1000') of the property line of a
pre-existing public or private school; or

(2) The entity sells intoxicating liquor for consumption on the premises.

ordinances or regulations not in conflict with this section or with department rules regulating the
time, place, and manner of marijuana establishments’ operations, provided that no local
government may prohibit any type of marijuana establishments’ operation altogether, either
expressly or through the enactment of ordinances or regulations which make any type of
marijuana establishments’ operation impracticable. Nothing shall prohibit municipalities from
imposing civil and criminal penalties on the violation of ordinances enacted pursuant to this
section.

21-28.10-7. Advertising and product placement. (a) No marijuana establishment or
other person may advertise the sale of marijuana in a manner contrary to the regulations
established by the department.
(b) Film, television, production, and other entertainment companies are prohibited from accepting payment for the product placement of marijuana or marijuana products in any production filmed in Rhode Island.

21-28.10-8. Retailer safety insert. – A retailer shall:
(1) Include a safety insert with all marijuana and marijuana products sold. The safety insert may, at the department’s discretion, be developed and approved by the department and shall include, but not be limited to, information on:
   (i) Methods for administering marijuana;
   (ii) Any potential dangers stemming from the use of marijuana; and
   (iii) How to recognize what may be problematic usage of marijuana and obtain appropriate services or treatment for problematic usage.
(2) Sell marijuana in its original marijuana cultivation facility packaging without making any changes or repackaging.
(3) Sell marijuana products in their original retail packaging without making any changes or repackaging.

21-28.10-9. Warning label on marijuana and marijuana products. – (a) A marijuana cultivation facility must create a unique package and label for its marijuana identifying itself as the producer.
(b) A marijuana retailer that produces marijuana products must create a unique package and label for its marijuana products identifying itself as the producer.
(c) Each package’s label shall include:
   (1) The name or registration number of the marijuana cultivation facility that produced the marijuana, and, in the case of marijuana products, the retailer that produced the marijuana products;
   (2) If a safety compliance facility is operational, the potency of the marijuana, as determined by testing by a safety compliance facility, represented by the percentage of tetrahydrocannabinol by mass;
   (3) A “produced on” date; and
   (4) Warnings that state: “Consumption of marijuana impairs your ability to drive a car or operate machinery,” “Keep away from children,” and, unless federal or state laws have changed, “Possession of marijuana is illegal outside of Rhode Island and under federal law.”

21-28.10-10. Marijuana cultivation facilities. – (a) All marijuana cultivated by marijuana cultivation facilities shall be cultivated only in enclosed, locked facilities registered with the department. An "enclosed, locked facility" may include a building, room, greenhouse,
fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices.

(b) A marijuana cultivation facility may only permit access to an enclosed, locked facility by:

(1) Employees, agents, or owners of the marijuana cultivation facility, all of whom must be twenty-one (21) years of age or older;

(2) Government employees performing their official duties;

(3) Contractors performing labor that does not include marijuana cultivation, packaging, or processing, and who must be accompanied by an employee, agent, or owner of the marijuana cultivation facility when they are in areas where marijuana is being grown or stored; or

(4) Members of the media, elected officials, and individuals over the age of twenty-one (21) touring the facility, if they are accompanied by an employee, agent, or owner of the marijuana cultivation facility.

21-28.10-11. Transportation of marijuana. – (a) A marijuana establishment or any person who is acting in his or her capacity as an owner, employee, or agent of a marijuana establishment must have documentation when transporting marijuana on behalf of the marijuana establishment that specifies the amount of marijuana being transported, the registry identification number of the marijuana establishment, the date the marijuana is being transported, and, if the marijuana is being transported to another marijuana establishment, the registry identification number of the intended marijuana establishment the marijuana is being transported to.

(b) If the marijuana establishment does not have a registration number because the department has ceased issuing registry identification certificates or has failed to begin issuing registry identification certificates, the marijuana establishment may instead use a number of its choosing that it consistently uses on documentation in place of a registry identification number.

21-28.10-12. Minors on the premises of marijuana establishment. – (a) A marijuana establishment shall not allow any person who is under twenty-one (21) years of age to be present inside any room where marijuana or marijuana products are stored, produced, or sold by the marijuana establishment unless the person who is under twenty-one (21) years of age is:

(1) A government employee performing his or her official duties;

(2) An elected official, a member of the media, a contractor performing labor that does not include marijuana cultivation, manufacturing, packaging, or processing; or

(3) If the marijuana establishment is a retailer, a medical marijuana patient registered pursuant to chapter 28.9 of title 21, if the retailer premises are also registered as a compassion center per §21-28.6-12 and the individual under twenty-one (21) years of age is a qualifying...
patient registered under chapter 28.9 of title 21.

(b) Except as otherwise provided in this subsection, in a prosecution for a violation of this section, it is a complete defense that before allowing a person who is under twenty-one (21) years of age into the room where marijuana is sold or stored, a staff member for the marijuana establishment was shown a document which appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign government and which indicated that the person who was allowed onto the premises of the marijuana establishment was twenty-one (21) years of age or older at the time the person was allowed onto the premises. The complete defense set forth in this subsection does not apply if:

(1) The document which was shown to the person who allowed the person who is under twenty-one (21) years of age onto the premises of the retailer was counterfeit, forged, altered, or issued to a person other than the person who was allowed onto the premises of the retailer; and

(2) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, altered, or issued to a person other than the person who was allowed onto the premises.

21-28.10-13. Retailer violations. – (1) Sell, give, deliver, or otherwise furnish marijuana, marijuana products, or marijuana paraphernalia to any person who is under twenty-one (21) years of age unless the retailer premises are also registered as a compassion center under § 21-28.6-12 and the individual under twenty-one (21) years of age is a qualifying patient registered under chapter 28.9 of title 21.

(2) Sell, give, deliver, or otherwise furnish marijuana products to any person who is twenty-one (21) years of age or older unless those marijuana products have been tested for potency and contaminants.

(3) Except as provided in this section, sell, deliver, give, or otherwise furnish more than the following quantities of marijuana or marijuana products to a person in a single transaction:

(i) One ounce (1 oz.) of marijuana, not including hashish;

(ii) Two (2) immature marijuana plants;

(iii) Five (5) grams of hashish;

(iv) Sixteen ounces (16 oz) of marijuana-infused product in solid form; and

(v) Seventy-two (72 oz) of marijuana-infused product in liquid form.

(4) Except as provided in this section, knowingly and willfully sell, give, or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than the quantities listed in subsection (3)(3) of this section.

(5) The prohibitions on dispensing marijuana in subsections (2) and (3) of this section do
not apply in instances where the retailer has verified that the person is a qualifying patient or primary caregiver registered under chapter 28.9 of title 21 and the amount of marijuana dispensed is within the qualifying patient’s limits;

(6) Purchase marijuana, other than marijuana seeds, from any person other than a marijuana cultivation facility or retailer;

(7) Purchase marijuana products from any person other than a marijuana retailer;

(8) Violate regulations issued by the department;

(b) In addition to any other penalty provided pursuant to specific statutes, a retailer who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000).

(c) As used in this section, "marijuana paraphernalia" means equipment, products, and materials which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

21-28.10-14. Marijuana cultivation facility violations. – (a) A marijuana cultivation facility shall not:

(1) Manufacture, sell, give away, or otherwise distribute marijuana products;

(2) Sell, deliver, give away, or otherwise furnish marijuana to any person other than a marijuana establishment or an agent or staff member acting on behalf of a marijuana establishment;

(3) Purchase marijuana, other than marijuana seeds, from any person other than a marijuana cultivation facility; or

(4) Purchase or sell, deliver, give, or otherwise furnish marijuana in any manner other than as is exempted from state penalties pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

(b) In addition to any other penalty provided pursuant to specific statutes, a person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000).

21-28.10-15. Operation of a retailer or cultivation facility before rulemaking. – Any retailer or cultivation facility that is registered before the department has completed rulemaking must comply with security regulations issued by the department of health for compassion centers until the department’s rulemaking has been finalized.

21-28.10-16. Suspension or termination of registration. – The department may
suspend or terminate the registration of a marijuana establishment that commits multiple or serious violations of this chapter or reasonable regulations issued pursuant to it. No later than ninety (90) days after the effective date of this chapter, the department shall promulgate regulations governing the procedures for suspending, revoking, or terminating the registration of marijuana establishments. These procedures must ensure due process rights are adhered to.

21-28.10-17. Excise tax. – (a) An excise tax is hereby levied upon marijuana cultivation facilities and must be collected respecting all marijuana sold or transferred to retailers.

(b) The dried flowers of the marijuana plant shall be taxed at the rate of either fifty dollars ($50.00) per ounce or proportionate part thereof, or at an amount that the department may set that adjusts the initial fifty dollars ($50.00) per ounce rate for inflation or deflation based on the consumer price index.

(c) Marijuana seedlings sold or transferred by marijuana cultivation facilities to retailers shall be taxed at the rate of either ten dollars ($10.00) per plant, or at an amount that the department may set that adjusts the initial ten dollars ($10.00) per plant rate for inflation or deflation based on the consumer price index.

(d) All other parts of the marijuana plant that are sold or transferred by marijuana cultivation facilities to retailers, including, but not limited to, the dried leaves, shall be taxed at the rate of either fifteen dollars ($15.00) per ounce or proportionate part thereof, or at an amount that the department may set that adjusts the initial fifteen dollar ($15.00) per ounce rate for inflation or deflation based on the consumer price index.

21-28.10-18. Distribution of funds. – The department shall apportion the money remitted to the department from registration fees and taxes collected pursuant to this chapter in the following manner:

(1) The department shall retain sufficient money to defray the entire cost of administration of this chapter.

(2) The department shall remit to the department of health an amount sufficient to cover the costs associated with any health and safety inspections made necessary by this chapter.

(3) After retaining sufficient money to defray the entire cost of administration of this chapter pursuant to subsection (1) of this section and remitting sufficient money to the department of health pursuant to subsection (2) of this section, the department shall remit the remaining money to the Rhode Island general fund, forty percent (40%) of which must be distributed to the Rhode Island department of health for use in voluntary programs for the prevention or treatment of the abuse of alcohol, tobacco, or controlled substances, and ten percent (10%) of which must be spent on drug recognition expert training for members of Rhode Island law enforcement.
21-28.10-19. Contracts enforceable. – It is the public policy of the state that contracts related to the operation of a marijuana cultivation facility, retailer, safety compliance facility, compassion center, or hemp cultivator registered pursuant to Rhode Island law should be enforceable. It is the public policy of the state that no contract entered into by a registered marijuana establishment or hemp cultivator or its employees or agents as permitted pursuant to a valid registration with a department of the state, or by those who allow property to be used by an establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using marijuana or hemp is prohibited by federal law.

21-28.10-20. Department regulations. – (a) The department is responsible for administering and carrying out the provisions of this chapter.

(b) The department may adopt regulations that are necessary and convenient to administer and carry out the provisions of this chapter.

(c) No later than one hundred-eighty (180) days after the effective date of this chapter, the department shall adopt regulations that:

(1) Set forth the procedures for the application for and issuance of registrations to marijuana establishments, including the content and form for applications;

(2) Establish qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;

(3) Specify the procedures for the collection of taxes levied pursuant to this chapter;

(4) Specify the content, form, and timing of reports, which must be completed by each marijuana establishment and which must be available for inspection by the department. The reports shall include information on sales, expenses, inventory, and taxes and shall be retained for at least one year after the completion of the forms;

(5) Specify requirements for the packaging and labeling of marijuana, including requiring:

(i) The disclosure of a list of ingredients and possible allergens in marijuana products;

(ii) A nutritional fact panel for marijuana products;

(iii) Marijuana products to be distributed in opaque, child resistant packaging, which must be designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995); and

(iv) The dissemination of educational materials to consumers who purchase marijuana-infused products, including information regarding the length of time it typically takes for products
1 to take effect.

2 (6) Specify the requirements for the production and sale of marijuana-infused products
3 which shall include, at a minimum:
4 (i) Defining the amount of delta-9-tetrahydrocannabinol that constitutes a single serving;
5 (ii) Limiting each individual package of edible marijuana-infused products to a single
6 serving;
7 (iii) Requiring that marijuana-infused products be clearly identifiable, when practicable,
8 with a standard symbol indicating that it contains marijuana;
9 (7) Specify the requirements for the safety insert to be included with marijuana by
10 retailers, including those in § 21-28.10-8, if the department chooses to do so;
11 (8) Establish reasonable security requirements for marijuana establishments, which may
12 not conflict with security requirements for compassion centers;
13 (9) Require the posting or display of marijuana establishments’ registrations;
14 (10) Establish restrictions on advertising for the sale of marijuana. The restrictions shall:
15 (i) Be in compliance with the United States Constitution and the Rhode Island
16 Constitution; and
17 (ii) Include a prohibition on advertising reasonably considered aimed at minors;
18 (iii) Be at least as restrictive as limitations on advertising tobacco products, provided that
19 the regulations may not prevent appropriate signs on the property of the marijuana establishment,
20 listings in business directories including phone books, listings in publications focused on
21 marijuana, or the sponsorship of health or not-for-profit charity or advocacy events;
22 (11) Establish procedures for inspecting and auditing the records or premises of a
23 marijuana establishment, including, but not limited to, procedures for the department of health to
24 conduct inspections of a marijuana establishment that produces edible or potable marijuana-
25 infused products;
26 (12) Set a schedule of civil fines for violations of this chapter and regulations issued
27 pursuant to the chapter;
28 (13) Set forth the procedures for hearings on civil fines and suspensions and revocation of
29 a registration as a retailer, marijuana cultivation facility, or safety compliance facility for a
30 violation of any provision of this chapter or the regulations adopted pursuant to this chapter;
31 (14) Establish reasonable environmental controls to ensure that any registered marijuana
32 establishment minimizes any harm to the environment adjoining and nearby landowners, and
33 persons passing by. This may include prohibiting pesticides that are harmful to human health, but
34 may not include a prohibition on the use of all pesticides;
(15) Prohibit or regulate additives to marijuana and marijuana-infused products, including, but not limited to, those that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers; the prohibition may not extend to common baking and cooking items;

(16) Mandate random sample testing to ensure quality control, including by ensuring that marijuana and marijuana-infused products are accurately labeled for potency. The testing analysis must include testing for residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; and harmful microorganisms such as E. coli or salmonella and pesticides;

(17) Establishing standards for the operation of testing laboratories, including requirements for equipment and qualifications for personnel;

(18) Establish rules requiring marijuana cultivation facilities, safety compliance facilities, and retailers to create identification cards for their employees and agents and providing for the contents of the identification cards; and

(19) Establish rules for the secure transportation of marijuana.

(d) The department shall make available free of charge all forms for applications and reports.

(e) The department shall issue all registrations as required by this chapter.

(f) The department shall not require:

(1) An individual consumer to provide a retailer with personal information other than government-issued identification to determine the individual’s age; or

(2) A retailer to acquire and record personal information about individual customers other than information typically acquired in a financial transaction conducted at a retail liquor store.

21-28.10-21. Failure of department to adopt regulations. – (a) The department shall adopt regulations to implement this chapter. Within three (3) months of the effective date of this chapter, the department shall begin accepting applications for marijuana establishments from persons or entities who hold a current compassion center registration under § 21-28.6-12.

(b) Within eighteen months (18) months of the effective date of this chapter, the department shall begin accepting applications for marijuana establishments from persons or entities who do not hold a current compassion center registration under § 21-28.6-12.

(c) If the department fails to adopt regulations to implement this chapter or fails to begin processing applications for marijuana establishments within one hundred eighty (180) days of the effective date of this chapter, any citizen may commence an action in a court of competent jurisdiction to compel the department to perform the actions mandated pursuant to the provisions of this chapter.
SECTION 3. Title 44 of the General Laws entitled “TAXATION” is hereby amended by adding thereto the following chapter:

CHAPTER 70

SPECIAL SALES TAX ON RETAIL MARIJUANA

44-70-1. Imposition of special sales tax on retail marijuana. – (a) Except as provided for in subsection (b) of this section, a sales tax at a rate of ten percent (10%) shall be imposed on all retail sales of marijuana in accordance with the laws of, and regulations enacted through the authority of, title 21.

(b) The special sales tax does not apply to marijuana sales from a registered compassion center to a registered qualifying patient or a registered primary caregiver pursuant to § 21-28.6-12.

SECTION 4. Section 44-18-7 of the General Laws in Chapter 44-18 entitled “Sales and Use Taxes - Liability and Computation” is hereby amended to read as follows:

44-18-7. Sales defined. – “Sales” means and includes:

(1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means of tangible personal property for a consideration.

"Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator to be in lieu of a transfer of title, exchange, or barter.

(2) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(3) The furnishing and distributing of tangible personal property for a consideration by social, athletic, and similar clubs and fraternal organizations to their members or others.

(4) The furnishing, preparing, or serving for consideration of food, meals, or drinks, including any cover, minimum, entertainment, or other charge in connection therewith.

(5) A transaction whereby the possession of tangible personal property is transferred, but the seller retains the title as security for the payment of the price.

(6) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate commerce, of tangible personal property from the place where it is located for delivery to a point in this state for the purpose of the transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of the property for a consideration.

(7) A transfer for a consideration of the title or possession of tangible personal property, which has been produced, fabricated, or printed to the special order of the customer, or any
publication.

(8) The furnishing and distributing of electricity, natural gas, artificial gas, steam, refrigeration, and water.

(9) (i) The furnishing for consideration of intrastate, interstate and international telecommunications service sourced in this state in accordance with subsections 44-18.1(15) and (16) and all ancillary services, any maintenance services of telecommunication equipment other than as provided for in subdivision 44-18-12(b)(ii). For the purposes of chapters 18 and 19 of this title only, telecommunication service does not include service rendered using a prepaid telephone calling arrangement.

(ii) Notwithstanding the provisions of paragraph (i) of this subdivision, in accordance with the Mobile Telecommunications Sourcing Act (4 U.S.C. §§ 116 -- 126), subject to the specific exemptions described in 4 U.S.C. § 116(c), and the exemptions provided in §§ 44-18-8 and 44-18-12, mobile telecommunications services that are deemed to be provided by the customer's home service provider are subject to tax under this chapter if the customer's place of primary use is in this state regardless of where the mobile telecommunications services originate, terminate or pass through. Mobile telecommunications services provided to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider.

(10) The furnishing of service for transmission of messages by telegraph, cable, or radio and the furnishing of community antenna television, subscription television, and cable television services.

(11) The rental of living quarters in any hotel, rooming house, or tourist camp.

(12) The transfer for consideration of prepaid telephone calling arrangements and the recharge of prepaid telephone calling arrangements sourced to this state in accordance with §§ 44-18.1-11 and 44-18.1-15. "Prepaid telephone calling arrangement" means and includes prepaid calling service and prepaid wireless calling service.

(13) The sale, storage, use or other consumption of over-the-counter drugs as defined in paragraph 44-18-7.1(h)(ii).

(14) The sale, storage, use or other consumption of prewritten computer software delivered electronically or by load and leave as defined in paragraph 44-18-7.1(v).

(15) The sale, storage, use or other consumption of medical marijuana as defined in § 21-28.6-3.

(16)(15) The furnishing of services in this state as defined in § 44-18-7.3.

SECTION 5. Sections 12-1.3-2 and 12-1.3-3 of the General Laws in Chapter 12-1.3
entitled "Expungement of Criminal Records" are hereby amended to read as follows:

**12-1.3-2. Motion for expungement. --** (a) Any person who is a first offender may file a motion for the expungement of all records and records of conviction for a felony or misdemeanor by filing a motion in the court in which the conviction took place, provided that no person who has been convicted of a crime of violence shall have his or her records and records of conviction expunged.

(b) Subject to subsection (a) of this section, a person may file a motion for the expungement of records relating to a misdemeanor conviction after five (5) years from the date of the completion of his or her sentence.

(c) Subject to subsection (a) of this section, a person may file a motion for the expungement of records relating to a felony conviction after ten (10) years from the date of the completion of his or her sentence.

(d) Without regard to subsections (a) through (c) of this section, a person may file a motion for the expungement of records related to an offense that has been either decriminalized or legalized subsequent to the date of such conviction, after which the court will hold a hearing on the motion in the court in which the original conviction took place.

**12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting. --** (a) Any person filing a motion for expungement of the records of his or her conviction pursuant to § 12-1.3-2 shall give notice of the hearing date set by the court to the department of the attorney general and the police department which originally brought the charge against the person at least ten (10) days prior to that date.

(b) The court, after the hearing at which all relevant testimony and information shall be considered, may in its discretion order the expungement of the records of conviction of the person filing the motion if it finds:

(1) That in the five (5) years preceding the filing of the motion, if the conviction was for a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor, there are no criminal proceedings pending against the person, and he or she has exhibited good moral character;

(2) That the petitioner's rehabilitation has been attained to the court's satisfaction and the expungement of the records of his or her conviction is consistent with the public interest.

(c) If the court grants the motion, it shall, after payment by the petitioner of a one hundred dollar ($100) fee to be paid to the court order all records and records of conviction relating to the conviction expunged and all index and other references to it deleted. A copy of the
order of the court shall be sent to any law enforcement agency and other agency known by either
the petitioner, the department of the attorney general, or the court to have possession of the
records. Compliance with the order shall be according to the terms specified by the court.

(d) In cases of expungement sought pursuant to § 12-1.3-2(d), the court shall, after a
hearing at which it finds that all conditions of the original criminal sentence have been completed
and any and all fines, fees, and costs related to conviction have been paid in full, order the
expungement without cost to the petitioner. At said hearing, should the petitioner demonstrate, by
prima facie evidence, that the conviction of said offense resulted from conduct that is a
decriminalized civil violation under current law or has been legalized subsequent to the
conviction, the burden shifts to the state to demonstrate that the conviction does not qualify for
relief under this chapter.

Chapter 21-28 entitled "Uniform Controlled Substances Act" are hereby amended to read as
follows:

21-28-4.01. Prohibited acts A -- Penalties. -- (a) (1) Except as authorized by this
chapter, or as exempted from criminal penalties pursuant to chapters 28.9 or 28.10 of title 21, it
shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or
deliver a controlled substance.

(2) Any person who is not a drug-addicted person, as defined in § 21-28-1.02(18), who
violates this subsection with respect to a controlled substance classified in schedule I or II, except
the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned
to a term up to life or fined not more than five hundred thousand dollars ($500,000) nor less than
ten thousand dollars ($10,000), or both.

(3) Where the deliverance as prohibited in this subsection shall be the proximate cause of
death to the person to whom the controlled substance is delivered, it shall not be a defense that
the person delivering the substance was at the time of delivery, a drug-addicted person as defined
in § 21-28-1.02(18).

(4) Any person, under twenty-one (21) years of age except as provided for in subdivision
(2) of this subsection, who violates this subsection with respect to the manufacture of one mature,
flowering marijuana plant or two (2) or fewer total marijuana plants is guilty of a crime and upon
conviction may be imprisoned for not more than five (5) years, or fined not more than three
thousand dollars ($3,000), or both:

(i) A controlled substance, classified in schedule I or II, except the substance classified
as marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than thirty
(30) years, or fined not more than one hundred thousand dollars ($100,000) nor less than three
thousand dollars ($3,000), or both;

(ii) The manufacture of two (2) or more mature, flowering marijuana plants or three (3)
or more total marijuana plants, is guilty of a crime and upon conviction may be imprisoned for
not more than ten (10) years, or fined not more than one hundred thousand dollars ($100,000), or
both.

(iii) The delivery of marijuana is guilty of a crime and upon conviction may be
imprisoned for not more than ten (10) years, or fined not more than one hundred thousand dollars
($100,000) nor less than one thousand dollars ($1,000), or both.

(iv) A controlled substance, classified in schedule III or IV, is guilty of a crime and
upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than
forty thousand dollars ($40,000), or both; provided, with respect to a controlled substance
classified in schedule III(d), upon conviction may be imprisoned for not more than five (5) years,
or fined not more than twenty thousand dollars ($20,000), or both.

(v) A controlled substance, classified in schedule V, is guilty of a crime and upon
conviction may be imprisoned for not more than one year, or fined not more than ten thousand
dollars ($10,000), or both.

(b) (1) Except as authorized by this chapter, it is unlawful for any person to create,
deliver, or possess with intent to deliver, a counterfeit substance.

(2) Any person who violates this subsection with respect to:

(i) A counterfeit substance, classified in schedule I or II, is guilty of a crime and upon
conviction may be imprisoned for not more than thirty (30) years, or fined not more than one
hundred thousand dollars ($100,000), or both;

(ii) A counterfeit substance, classified in schedule III or IV, is guilty of a crime and upon
conviction may be imprisoned for not more than twenty (20) years, or fined not more than forty
thousand dollars ($40,000), or both; provided, with respect to a controlled substance classified in
schedule III(d), upon conviction may be imprisoned for not more than five (5) years, or fined not
more than twenty thousand dollars ($20,000) or both.

(iii) A counterfeit substance, classified in schedule V, is guilty of a crime and upon
conviction may be imprisoned for not more than one year, or fined not more than ten thousand
dollars ($10,000), or both.

(c) (1) It shall be unlawful for any person knowingly or intentionally to possess a
controlled substance, unless the substance was obtained directly from, or pursuant to, a valid
prescription or order of a practitioner while acting in the course of his or her professional
practice, or except as otherwise authorized by this chapter or exempt from arrest by chapters 28.9
or 28.10 of title 21.

(2) Any person who violates this subsection with respect to:

(i) A controlled substance classified in schedules I, II and III, IV, and V, except the
substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned for
not more than three (3) years or fined not less than five hundred dollars ($500) nor more than five
thousand dollars ($5,000), or both;

(ii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as
marijuana is guilty of a misdemeanor except for those persons subject to § 21-28-4.01(a)(1) and
upon conviction may be imprisoned for not more than one year or fined not less than two hundred
dollars ($200) nor more than five hundred dollars ($500), or both.

(iii) Notwithstanding any public, special, or general law to the contrary, the possession
of one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older
and who is not exempted from penalties pursuant to chapter 28.6 of this title shall constitute a
civil offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty
dollars ($150) and forfeiture of the marijuana, but not to any other form of criminal or civil
punishment or disqualification. Notwithstanding any public, special, or general law to the
contrary, this civil penalty of one hundred fifty dollars ($150) and forfeiture of the marijuana
shall apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen
months.

(iv) Notwithstanding any public, special, or general law to the contrary, possession of
one ounce (1 oz.) or less of marijuana by a person who is under the age of eighteen (18) years, but
who is less than twenty-one (21) years of age, and who is not exempted from penalties pursuant
to chapter 28.6 of this title shall constitute a civil offense, rendering the offender liable to a civil
penalty in the amount of one hundred fifty dollars ($150) and forfeiture of the marijuana;
provided the minor offender completes an approved, drug-awareness program and community
service as determined by the court. If the person under the age of eighteen (18) years fails to
complete an approved, drug-awareness program and community service within one year of the
offense, the penalty shall be a three hundred dollar ($300) civil fine and forfeiture of the
marijuana, except that if no drug-awareness program or community service is available, the
penalty shall be a fine of one hundred fifty dollars ($150) and forfeiture of the marijuana. The
parents or legal guardian of any offender under the age of eighteen (18) shall be notified of the
offense and the availability of a drug-awareness and community-service program. The drug-
awareness program must be approved by the court, but shall, at a minimum, provide four (4)
hours of instruction or group discussion, and ten (10) hours of community service.

Notwithstanding any other public, special or general law to the contrary, this civil penalty shall apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen (18) months.

(v) Notwithstanding any public, special, or general law to the contrary, a person not exempted from penalties pursuant to chapter 28.6 of this title found in possession of one ounce (1 oz.) or less of marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than thirty (30) days or fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or both, if that person has been previously adjudicated on a violation for possession of less than one ounce (1 oz.) of marijuana under § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) two (2) times in the eighteen (18) months prior to the third (3rd) offense.

(vi) Any unpaid civil fine issued under § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall double to three hundred dollars ($300) if not paid within thirty (30) days of the offense. The civil fine shall double again to six hundred dollars ($600) if it has not been paid within ninety (90) days.

(vii) No person may be arrested for a violation of § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) except as provided in this subparagraph. Any person in possession of an identification card, license, or other form of identification issued by the state or any state, city, or town, or any college or university, who fails to produce the same upon request of a police officer who informs the person that he or she has been found in possession of what appears to the officer to be one ounce (1 oz.) or less of marijuana, or any person without any such forms of identification that fails or refuses to truthfully provide his or her name, address, and date of birth to a police officer who has informed such person that the officer intends to provide such individual with a citation for possession of one ounce (1 oz.) or less of marijuana, may be arrested.

(viii) No violation of § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be considered a violation of parole or probation.

(ix) Any records collected by any state agency or tribunal that include personally identifiable information about violations of § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be sealed eighteen (18) months after the payment of said civil fine.

(3) Jurisdiction. - Any and all violations of § 21-28-4.01(c)(2)(iii) and 21-28-4.01(c)(2)(iv) shall be the exclusive jurisdiction of the Rhode Island traffic tribunal. All money associated with the civil fine issued under § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines collected by the
Rhode Island traffic tribunal from civil penalties issued pursuant to § 21-28-4.01(c)(2)(iii) or 21-
28-4.01(c)(2)(iv) shall be expended on drug awareness and treatment programs for youth.

(4) Additionally every person convicted or who pleads nolo contendere under paragraph
(2)(i) of this subsection or convicted or who pleads nolo contendere a second or subsequent time
under paragraph (2)(ii) of this subsection, who is not sentenced to a term of imprisonment to
serve for the offense, shall be required to:

(i) Perform up to one hundred (100) hours of community service;

(ii) Attend and complete a drug counseling and education program as prescribed by the
director of the department of mental health, retardation and hospitals and pay the sum of four
hundred dollars ($400) to help defray the costs of this program which shall be deposited as
general revenues. Failure to attend may result, after hearing by the court, in jail sentence up to
one year;

(iii) The court shall not suspend any part or all of the imposition of the fee required by
this subsection, unless the court finds an inability to pay;

(iv) If the offense involves the use of any automobile to transport the substance or the
substance is found within an automobile, then a person convicted or who pleads nolo contendere
under paragraphs (2)(i) and (ii) of this subsection shall be subject to a loss of license for a period
of six (6) months for a first offense and one year for each offense after.

(5) All fees assessed and collected pursuant to paragraph (3)(ii) of this subsection shall
be deposited as general revenues and shall be collected from the person convicted or who pleads
nolo contendere before any other fines authorized by this chapter.

(d) It shall be unlawful for any person to manufacture, distribute, or possess with intent
to manufacture or distribute, an imitation controlled substance. Any person who violates this
subsection is guilty of a crime and upon conviction shall be subject to the same term of
imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
controlled substance that the particular imitation controlled substance forming the basis of the
prosecution was designed to resemble and/or represented to be; but in no case shall the
imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
($20,000).

(e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an
anabolic steroid or human growth hormone for: (1) enhancing performance in an exercise, sport,
or game, or (2) hormonal manipulation intended to increase muscle mass, strength, or weight
without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor
and upon conviction may be imprisoned for not more than six (6) months or a fine of not more
than one thousand dollars ($1,000), or both.

(f) It is unlawful for any person to knowingly or intentionally possess, manufacture,
distribute, or possess with intent to manufacture or distribute any extract, compound, salt
derivative, or mixture of salvia divinorum or datura stramonium or its extracts unless the person
is exempt pursuant to the provisions of § 21-28-3.30. Notwithstanding any laws to the contrary,
any person who violates this section is guilty of a misdemeanor, and, upon conviction, may be
imprisoned for not more than one year, or fined not more than one thousand dollars ($1,000), or
both. The provisions of this section shall not apply to licensed physicians, pharmacists, and
accredited hospitals and teaching facilities engaged in the research or study of salvia divinorum or
datura stramonium and shall not apply to any person participating in clinical trials involving the
use of salvia divinorum or datura stramonium.

21-28-4.01. Minimum sentence -- Certain quantities of controlled substances. -- (a)

Except as authorized by this chapter, it shall be unlawful for any person to manufacture, sell, or
possess with intent to manufacture, or sell, a controlled substance classified in schedules I or II
(excluding marijuana) or to possess or deliver the following enumerated quantities of certain
controlled substances:

1. One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
detectable amount of heroin;

2. One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
detectable amount of:
   (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
   ecgonine, and derivatives of ecgonine or their salts have been removed;
   (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
   (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
   (iv) Any compound, mixture, or preparation which contains any quantity of any of the
   substances referred to in paragraphs (i) -- (iii) of this subdivision;

3. One gram (1 g.) to ten grams (10 gs.) of phencyclidine (PCP) or one hundred (100) to
   one thousand (1,000) tablets of a mixture or substance containing a detectable amount of
   phencyclidine (PCP);

4. One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD)
or one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a
detectable amount of lysergic acid diethylamide (LSD);

(5) One kilogram (1 kg.) to five (5 kgs.) kilograms of a mixture containing a detectable
amount of marijuana, or
(5) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a detectable amount of synthetic drugs.

(b) Any person who violates this section shall be guilty of a crime, and upon conviction, may be imprisoned for a term up to fifty (50) years and fined not more than five hundred thousand dollars ($500,000).

21-28-4.01.2. Minimum sentence -- Certain quantities of controlled substances. -- (a)

Except as authorized by the chapter, it shall be unlawful for any person to possess, manufacture, sell, or deliver the following enumerated quantities of certain controlled substances:

(1) More than one kilogram (1 kg.) of a mixture or substance containing a detectable amount of heroin;

(2) More than one kilogram (1 kg.) of a mixture or substance containing a detectable amount of:

(i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (i) -- (iii) of this subdivision;

(3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand (1,000) tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(4) More than one gram (1 g.) of lysergic acid diethylamide (LSD); or more than one thousand (1,000) tablets of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(5) More than five kilograms (5 kgs.) of a mixture containing a detectable amount of marijuana or

(5) More than one kilogram (1 kg.) of a mixture or substance containing a detectable amount of synthetic drugs.

(b) Any person who violates this section shall be guilty of a crime, and upon conviction, may be imprisoned for a term up to life and fined not more than one million dollars ($1,000,000).

SECTION 7. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances Act" is hereby amended by adding thereto the following section:

21-28-4.23. Marijuana exemption. -- The penalties provided for in this chapter do not apply to those exempted from criminal penalties pursuant to chapters 28.9 or 28.10 of title 21.

SECTION 8. Chapter 31-22 of the General Laws entitled "Miscellaneous Rules" is
hereby amended by adding thereto the following section:

31-22-31. Consuming marijuana in a moving vehicle. (a) No person shall consume marijuana while driving a motor vehicle on any public street or public highway within the state.
   (b) No person shall smoke marijuana while he or she is a passenger in a motor vehicle that being operated on any public street or public highway within the state.
   (c) Any person found in violation of this section may be fined not more than two hundred dollars ($200) or have his or her driver's license suspended for up to six (6) months, or both, for the first violation, and for each subsequent violation may be fined not more than five hundred dollars ($500) or have his or her driver's license suspended for up to one year, or both.
   (d) The original jurisdiction of this section shall be exclusively in the traffic tribunal.

SECTION 9. Section 31-27-2 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" is hereby amended to read as follows:

31-27-2. Driving under influence of liquor or drugs. [Effective January 1, 2015.]
   (a) Whoever drives or otherwise operates any vehicle in the state while under the influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3) and shall be punished as provided in subsection (d) of this section.
   (b) (1) Any person charged under subsection (a) of this section whose blood alcohol concentration is eight one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a blood, breath, or urine sample, shall be guilty of violating subsection (a) of this section. This provision shall not preclude a conviction based on other admissible evidence. Proof of guilt under this section may also be based on evidence that the person charged was under the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these, to a degree that rendered the person incapable of safely operating a vehicle. The fact that any person charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this section. A person twenty-one (21) years of age or older or a person exempt from criminal penalties for the medical use of marijuana pursuant to chapter 28.6 of title 21 shall not be considered under the influence of marijuana solely because of the presence of marijuana metabolites or components of marijuana unless the concentration of components of marijuana is proven to be sufficient to cause impairment.
   (2) Except as provided in this section, whoever drives, or otherwise operates, any vehicle in the state with a blood presence of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by analysis of a blood or urine sample, shall be guilty of a
misdemeanor and shall be punished as provided in subsection (d) of this section.

(c) In any criminal prosecution for a violation of subsection (a) of this section, evidence as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance, shall be admissible and competent, provided that evidence is presented that the following conditions have been complied with:

(1) The defendant has consented to the taking of the test upon which the analysis is made. Evidence that the defendant had refused to submit to the test shall not be admissible unless the defendant elects to testify.

(2) A true copy of the report of the test result was mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath test.

(3) Any person submitting to a chemical test of blood, urine, or other body fluids shall have a true copy of the report of the test result mailed to him or her within thirty (30) days following the taking of the test.

(4) The test was performed according to methods and with equipment approved by the director of the department of health of the state of Rhode Island and by an authorized individual.

(5) Equipment used for the conduct of the tests by means of breath analysis had been tested for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore provided, and breathalyzer operators shall be qualified and certified by the department of health within three hundred sixty-five (365) days of the test.

(6) The person arrested and charged with operating a motor vehicle while under the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or, any combination of these in violation of subsection (a) of this section, was afforded the opportunity to have an additional chemical test. The officer arresting or so charging the person shall have informed the person of this right and afforded him or her a reasonable opportunity to exercise this right, and a notation to this effect is made in the official records of the case in the police department. Refusal to permit an additional chemical test shall render incompetent and inadmissible in evidence the original report.

(d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be sentenced as follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2), shall be subject to a fine of not less than one hundred dollars ($100) nor more than three hundred
dollars ($300); shall be required to perform ten (10) to sixty (60) hours of public community
restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
required to attend a special course on driving while intoxicated or under the influence of a
controlled substance; provided, however, that the court may permit a servicemember or veteran to
complete any court-approved counseling program administered or approved by the Veterans'
Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
hundred eighty (180) days. The sentencing judge or magistrate may prohibit that person from
operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
31-27-2.8.

(ii) Every person convicted of a first violation whose blood alcohol concentration is one-
tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
(.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less
than one hundred ($100) dollars, nor more than four hundred dollars ($400), and shall be required
to perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned
for up to one year. The sentence may be served in any unit of the adult correctional institutions in
the discretion of the sentencing judge. The person's driving license shall be suspended for a
period of three (3) months to twelve (12) months. The sentencing judge shall require attendance
at a special course on driving while intoxicated or under the influence of a controlled substance
and/or alcoholic or drug treatment for the individual; provided, however, that the court may
permit a servicemember or veteran to complete any court-approved counseling program
administered or approved by the Veterans' Administration. The sentencing judge or magistrate
may prohibit that person from operating a motor vehicle that is not equipped with an ignition
interlock system as provided in § 31-27-2.8.

(iii) Every person convicted of a first offense whose blood alcohol concentration is
fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,
toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to a fine of
five hundred dollars ($500) and shall be required to perform twenty (20) to sixty (60) hours of
public community restitution and/or shall be imprisoned for up to one year. The sentence may be
served in any unit of the adult correctional institutions in the discretion of the sentencing judge.
The person's driving license shall be suspended for a period of three (3) months to eighteen (18)
months. The sentencing judge shall require attendance at a special course on driving while
intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for
the individual; provided, however, that the court may permit a servicemember or veteran to
complete any court-approved counseling program administered or approved by the Veterans' Administration. The sentencing judge or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

(2) (i) Every person convicted of a second violation within a five-year (5) period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every person convicted of a second violation within a five-year (5) period, regardless of whether the prior violation and subsequent conviction was a violation and subsequent conviction under this statute or under the driving under the influence of liquor or drugs statute of any other state, shall be subject to a mandatory fine of four hundred dollars ($400). The person's driving license shall be suspended for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug treatment for the individual; provided, however, that the court may permit a servicemember or veteran to complete any court-approved counseling program administered or approved by the Veterans' Administration and shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

(ii) Every person convicted of a second violation within a five-year (5) period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to mandatory imprisonment of not less than six (6) months, nor more than one year; a mandatory fine of not less than one thousand dollars ($1,000); and a mandatory license suspension for a period of two (2) years from the date of completion of the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug treatment for the individual; provided, however, that the court may permit a servicemember or veteran to complete any court approved counseling program administered or approved by the Veterans' Administration. The sentencing judge or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

(3) (i) Every person convicted of a third or subsequent violation within a five-year (5) period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or
above, but less than fifteen hundredths of one percent (.15%), or whose blood alcohol
corcentration is unknown or who has a blood presence of any scheduled controlled substance as
defined in subdivision (b)(2), regardless of whether any prior violation and subsequent conviction
was a violation and subsequent conviction under this statute or under the driving under the
influence of liquor or drugs statute of any other state, shall be guilty of a felony and be subject to
a mandatory fine of four hundred ($400) dollars. The person's driving license shall be suspended
for a period of two (2) years to three (3) years, and the individual shall be sentenced to not less
than one year and not more than three (3) years in jail. The sentence may be served in any unit of
the adult correctional institutions in the discretion of the sentencing judge; however, not less than
forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall
require alcohol or drug treatment for the individual; provided, however, that the court may permit
a servicemember or veteran to complete any court-approved counseling program administered or
approved by the Veterans' Administration, and shall prohibit that person from operating a motor
vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

(ii) Every person convicted of a third or subsequent violation within a five-year (5)
period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by
weight as shown by a chemical analysis of a blood, breath, or urine sample, or who is under the
influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1), shall be
subject to mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a
mandatory fine of not less than one thousand dollars ($1,000), nor more than five thousand
dollars ($5,000); and a mandatory license suspension for a period of three (3) years from the date
of completion of the sentence imposed under this subsection. The sentencing judge shall require
alcohol or drug treatment for the individual. The sentencing judge or magistrate shall prohibit that
person from operating a motor vehicle that is not equipped with an ignition interlock system as
provided in § 31-27-2.8.

(iii) In addition to the foregoing penalties, every person convicted of a third or
subsequent violation within a five-year (5) period, regardless of whether any prior violation and
subsequent conviction was a violation and subsequent conviction under this statute or under the
driving under the influence of liquor or drugs statute of any other state, shall be subject, in the
discretion of the sentencing judge, to having the vehicle owned and operated by the violator
seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred
to the general fund.

(4) Whoever drives or otherwise operates any vehicle in the state while under the
influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in
chapter 28 of title 21, or any combination of these, when his or her license to operate is suspended, revoked, or cancelled for operating under the influence of a narcotic drug or intoxicating liquor, shall be guilty of a felony punishable by imprisonment for not more than three years and by a fine or not more than three thousand dollars ($3,000). The court shall require alcohol and/or drug treatment for the individual; provided, the penalties provided for in § 31-27-2(d)(4) shall not apply to an individual who has surrendered his or her license and served the court-ordered period of suspension, but who, for any reason, has not had his or her license reinstated after the period of suspension, revocation, or suspension has expired; provided, further, the individual shall be subject to the provisions of §§ 31-27-2(d)(i) or (ii) or 31-27-22(d)(3)(i), (ii), or (iii) regarding subsequent offenses, and any other applicable provision of § 31-27-2.

(5) (i) For purposes of determining the period of license suspension, a prior violation shall constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

(ii) Any person over the age of eighteen (18) who is convicted under this section for operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of these, while a child under the age of thirteen (13) years was present as a passenger in the motor vehicle when the offense was committed, may be sentenced to a term of imprisonment of not more than one year, and further, shall not be entitled to the benefit of suspension or deferment of this sentence. The sentence imposed under this section may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge.

(6) (i) Any person convicted of a violation under this section shall pay a highway assessment fine of five hundred dollars ($500) that shall be deposited into the general fund. The assessment provided for by this subsection shall be collected from a violator before any other fines authorized by this section.

(ii) Any person convicted of a violation under this section shall be assessed a fee of eighty-six dollars ($86).

(7) (i) If the person convicted of violating this section is under the age of eighteen (18) years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of public community restitution and the juvenile's driving license shall be suspended for a period of six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing judge shall also require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile. The juvenile may also be required to pay a highway assessment fine of no more than five hundred dollars ($500) and the assessment imposed shall be deposited into the general fund.
(ii) If the person convicted of violating this section is under the age of eighteen (18) years, for a second or subsequent violation regardless of whether any prior violation and subsequent conviction was a violation and subsequent under this statute or under the driving under the influence of liquor or drugs statute of any other state, he or she shall be subject to a mandatory suspension of his or her driving license until such time as he or she is twenty-one (21) years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode Island training school for a period of not more than one year and/or a fine of not more than five hundred dollars ($500).

(8) Any person convicted of a violation under this section may undergo a clinical assessment at the community college of Rhode Island's center for workforce and community education. Should this clinical assessment determine problems of alcohol, drug abuse, or psychological problems associated with alcoholic or drug abuse, this person shall be referred to an appropriate facility, licensed or approved by the department of mental health, retardation and hospitals for treatment placement, case management, and monitoring. In the case of a servicemember or veteran, the court may order that the person be evaluated through the Veterans' Administration. Should the clinical assessment determine problems of alcohol, drug abuse, or psychological problems associated with alcohol or drug abuse, the person may have their treatment, case management, and monitoring administered or approved by the Veterans' Administration.

(e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred (100) cubic centimeters of blood.

(f) (1) There is established an alcohol and drug safety unit within the division of motor vehicles to administer an alcohol safety action program. The program shall provide for placement and follow-up for persons who are required to pay the highway safety assessment. The alcohol and drug safety action program will be administered in conjunction with alcohol and drug programs licensed by the department of mental health retardation and hospitals.

(2) Persons convicted under the provisions of this chapter shall be required to attend a special course on driving while intoxicated or under the influence of a controlled substance, and/or participate in an alcohol or drug treatment program; provided, however, that the court may permit a servicemember or veteran to complete any court-approved counseling program administered or approved by the Veterans' Administration. The course shall take into consideration any language barrier that may exist as to any person ordered to attend, and shall provide for instruction reasonably calculated to communicate the purposes of the course in accordance with the requirements of the subsection. Any costs reasonably incurred in connection
with the provision of this accommodation shall be borne by the person being retrained. A copy of any violation under this section shall be forwarded by the court to the alcohol and drug safety unit. In the event that persons convicted under the provisions of this chapter fail to attend and complete the above course or treatment program, as ordered by the judge, then the person may be brought before the court, and after a hearing as to why the order of the court was not followed, may be sentenced to jail for a period not exceeding one year.

(3) The alcohol and drug safety action program within the division of motor vehicles shall be funded by general revenue appropriations.

(g) The director of the health department of the state of Rhode Island is empowered to make and file with the secretary of state regulations that prescribe the techniques and methods of chemical analysis of the person’s body fluids or breath and the qualifications and certification of individuals authorized to administer this testing and analysis.

(h) Jurisdiction for misdemeanor violations of this section shall be with the district court for persons eighteen (18) years of age or older and to the family court for persons under the age of eighteen (18) years. The courts shall have full authority to impose any sentence authorized, and to order the suspension of any license, for violations of this section. All trials in the district court and family court of violations of the section shall be scheduled within thirty (30) days of the arraignment date. No continuance or postponement shall be granted except for good cause shown. Any continuances that are necessary shall be granted for the shortest practicable time. Trials in superior court are not required to be scheduled within thirty (30) days of the arraignment date.

(i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on driving while intoxicated or under the influence of a controlled substance, public community restitution, or jail provided for under this section can be suspended.

(j) An order to attend a special course on driving while intoxicated that shall be administered in cooperation with a college or university accredited by the state, shall include a provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars ($25.00), and a fee of one hundred seventy-five dollars ($175), which fee shall be deposited into the general fund.

(k) For the purposes of this section, any test of a sample of blood, breath, or urine for the presence of alcohol that relies in whole or in part upon the principle of infrared light absorption is considered a chemical test.

(l) If any provision of this section, or the application of any provision, shall for any reason be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of the section, but shall be confined in this effect to the provision or application directly involved in
the controversy giving rise to the judgment.

(m) For the purposes of this section, "servicemember" means a person who is presently serving in the armed forces of the United States, including the Coast Guard, a reserve component thereof, or the National Guard. "Veteran" means a person who has served in the armed forces, including the Coast Guard of the United States, a reserve component thereof, or the National Guard, and has been discharged under other than dishonorable conditions.

SECTION 10. Section 31-27-2.4 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" is hereby amended to read as follows:

31-27-2.4. Driving while in possession of controlled substances. -- (a) In addition to any other penalty prescribed by law, whoever operates any motor vehicle while knowingly having in the motor vehicle or in his or her possession, a controlled substance, as defined in § 21-28-1.02, except for possession of up to one ounce (1 oz.) of marijuana, shall have his or her license suspended for a period of six (6) months.

(b) This section shall not apply to any person who lawfully possesses a controlled substance, as defined in § 21-28-1.02, as a direct result and pursuant to a valid prescription from a licensed medical practitioner, or as otherwise authorized by chapter 28 of title 21.

SECTION 11. Section 44-11-11 of the General Laws in Chapter 44-11 entitled "Business Corporation Tax" is hereby amended to read as follows:

44-11-11. "Net income" defined. -- (a) (1) "Net income" means, for any taxable year and for any corporate taxpayer, the taxable income of the taxpayer for that taxable year under the laws of the United States, except as provided for in § 44-11-11(e), plus:

(i) Any interest not included in the taxable income;

(ii) Any specific exemptions;

(iii) The tax imposed by this chapter; and minus

(iv) Interest on obligations of the United States or its possessions, and other interest exempt from taxation by this state; and

(v) The federal net operating loss deduction.

(2) All binding federal elections made by or on behalf of the taxpayer applicable either directly or indirectly to the determination of taxable income shall be binding on the taxpayer except where this chapter or its attendant regulations specifically modify or provide otherwise. Rhode Island taxable income shall not include the "gross-up of dividends" required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer's election of the foreign tax credit.

(b) A net operating loss deduction shall be allowed which shall be the same as the net
operating loss deduction allowed under 26 U.S.C. § 172, except that:

(1) Any net operating loss included in determining the deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by subsection (a) of this section and § 44-11-11.1;

(2) The deduction shall not include any net operating loss sustained during any taxable year in which the taxpayer was not subject to the tax imposed by this chapter; and

(3) The deduction shall not exceed the deduction for the taxable year allowable under 26 U.S.C. § 172; provided, that the deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the five (5) succeeding taxable years.

c) "Domestic international sales corporations" (referred to as DISCs), for the purposes of this chapter, will be treated as they are under federal income tax law and shall not pay the amount of the tax computed under § 44-11-2(a). Any income to shareholders of DISCs is to be treated in the same manner as it is treated under federal income tax law as it exists on December 31, 1984.

d) A corporation which qualifies as a "foreign sales corporation" (FSC) under the provisions of subchapter N, 26 U.S.C. § 861 et seq., and which has in effect for the entire taxable year a valid election under federal law to be treated as a FSC, shall not pay the amount of the tax computed under § 44-11-2(a). Any income to shareholders of FSCs is to be treated in the same manner as it is treated under federal income tax law as it exists on January 1, 1985.

e) Notwithstanding any federal tax law to the contrary, in computing net income for businesses exempted from criminal penalties under § 21-28.6-12 or § 21-28.9-4 or there shall be allowed as a deduction from state taxes all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including, but not limited to, reasonable allowance for salaries or other compensation for personal services actually rendered.

SECTION 12. Chapter 44-49 of the General Laws entitled "Taxation of Marijuana and Controlled Substances" is hereby amended by adding thereto the following section:

44-49-17. No tax stamp required. -- Controlled substance tax payment with a stamp or other official indicia, as referred to in § 44-49-5, is not required for marijuana establishments and the penalties provided for in this chapter do not apply to those acting in accordance with the laws of and regulations enacted through the authority of title 21.

SECTION 13. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY" is hereby amended by adding thereto the following chapter:
HEMP ACT

2-26-1. Short title. -- This chapter shall be known and may be cited as the "Hemp Act."

2-26-2. Definitions. -- When used in this chapter, the following terms shall have the following meaning:

(1) "Department" means the department of environmental management.

(2) "Hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent (.3%) on a dry weight basis of any part of the plant cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant cannabis regardless of moisture content.

(3) "Hemp products" means all products made from hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

2-26-3. Hemp; an agricultural product. -- Hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in Rhode Island pursuant to the provisions of this chapter. The cultivation of hemp shall be subject to and comply with any regulations issued by the department pursuant to this chapter.

2-26-4. Registration. -- (a) Except as provided in this section, a person who intends to grow hemp shall register with the department and submit on a form provided by the department the following:

(1) The name and address of the person;

(2) A statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of delta-9 tetrahydrocannabinol set forth in this chapter;

(3) The location and acreage of all parcels sown and other field reference information as may be required by the state.

(b) A person registered with the department pursuant to this section shall allow hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the department.

(c) The department may assess an annual registration fee of one hundred dollars ($100) for the performance of its duties under this chapter.

(d) A person or entity that is allowed to cultivate marijuana plants under chapters 28.9 or 28.6 of title 21 may instead cultivate hemp plants without registering under this chapter. If the person or entity has not registered to cultivate hemp under this chapter, the hemp plants shall be considered marijuana plants and must comply with the requirements of chapters 28.9 or 28.6 of
title 21, including any limitation on the number of marijuana plants that the person may cultivate.

2-26-5. Rulemaking authority. -- The department may adopt rules to provide for the implementation of this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The department shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

2-26-6. Exemption from state penalties. -- (a) It is not a violation of state or local law for a person to plant, grow, harvest, possess, process, sell, and buy hemp if that person does so in compliance with this chapter and rules adopted in accordance with it.

(b) It is not a violation of state or local law for a person to purchase and possess industrial hemp or hemp products.

SECTION 14. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N   A C T
RELATING TO FOOD AND DRUGS - TAXATION AND REGULATION OF MARIJUANA

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1 This act would remove the state's prohibition on adults using, possessing, and cultivating
2 marijuana for personal use. It establishes a system of regulated marijuana retail distribution to
3 adults twenty-one (21) and older and imposes taxes at both the wholesale and retail level.
4 This act would take effect upon passage.