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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

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:

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

3 CHAPTER 28.9

4 MARIJUANA REGULATION, CONTROL, AND TAXATION ACT

5 **21-28.9-1. Short title. --** This chapter shall be known and may be cited as the "Marijuana
6 Regulation, Control, and Taxation Act."

7 **21-28.9-2. Legislative findings. --** The general assembly hereby finds and declares that:

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

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

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

19 (4) In Colorado, after more than a year of allowing licensed retail stores to sell small

1 amounts of marijuana to adults, there is little evidence that regulating marijuana like alcohol has
2 caused any significant, adverse social harms. Colorado is as healthy and safe today as it was
3 before enacting laws to regulate and tax marijuana.

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

7 **21-28.9-3. Definitions.** -- For purposes of this chapter:

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

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

16 (3) "Marijuana cultivation facility" means an entity that is registered pursuant to chapter
17 28.10 of title 21, to be exempt from state penalties for cultivating, preparing, packaging, and
18 selling marijuana to a retailer or another marijuana cultivation facility, but not for manufacturing
19 or selling marijuana products or selling marijuana to the general public.

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

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

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

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

1 older.

2 (8) "Safety compliance facility" means an entity that is registered pursuant to chapter
3 28.10 of title 21 to be exempt from state penalties for testing marijuana and marijuana products
4 for potency and contaminants.

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

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

10 **21-28.9-4. Exempt activities. -- Except as otherwise provided in this chapter:**

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

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

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

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

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

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

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

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

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

34 (ix) Aiding and abetting another person who is twenty-one (21) years of age or older in

1 the actions allowed under this chapter:

2 (x) Cultivating, possessing, growing, processing, or transporting no more than two (2)
3 marijuana plants, with one or fewer being a mature, flowering plant;

4 (xi) Controlling any premises where other persons twenty-one (21) years of age or older
5 cultivate marijuana plants, with the total number of mature, flowering plants not exceeding three
6 (3) in any dwelling unit unless a greater amount is allowed pursuant to chapter 28.6 of title 21;

7 (xii) Assisting with the cultivation of marijuana plants that are cultivated at the same
8 location for persons twenty-one (21) years of age or older, with the total number of mature,
9 flowering plants not exceeding three (3) in any dwelling unit; and

10 (xiii) Any combination of the acts described within paragraphs (1)(i) to (1)(xii) of this
11 section, inclusive.

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

17 (i) Transporting or possessing, actually or constructively, marijuana, including seedlings
18 or cuttings, that was purchased from a marijuana cultivation facility or a retailer;

19 (ii) Manufacturing, possessing, or producing marijuana products;

20 (iii) Transporting or possessing, actually or constructively, marijuana products that were
21 purchased from a retailer;

22 (iv) Obtaining or purchasing marijuana from a marijuana cultivation facility or marijuana
23 and marijuana products from a retailer;

24 (v) Selling, delivering, or transferring marijuana or marijuana products to another retailer;

25 (vi) Manufacturing, possessing, producing, obtaining, or purchasing marijuana
26 paraphernalia;

27 (vii) Selling, transferring, or delivering marijuana, including seedlings or cuttings,
28 marijuana products, or marijuana paraphernalia to any person who is twenty-one (21) years of age
29 or older;

30 (viii) Transferring or delivering marijuana or marijuana products to a safety compliance
31 facility;

32 (ix) Controlling any premises or vehicle where marijuana, marijuana products and
33 marijuana paraphernalia is possessed, sold, or deposited in a manner that is not in conflict with
34 this chapter or department regulations; and

1 (x) Any combination of the acts described within paragraphs (2)(i) to (2)(ix) of this
2 section, inclusive.

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

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

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

13 (iii) Transporting or possessing marijuana seeds;

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

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

17 (vi) Purchasing marijuana from a marijuana cultivation facility;

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

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

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

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

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

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

33 (ii) Returning marijuana and marijuana products to marijuana cultivation facilities and
34 retailers, or, if the quantity is no more than the amounts allowed under § 21-28.9-4, to individuals

1 twenty-one (21) years of age or older;

2 (iii) Delivering marijuana to other safety compliance facilities;

3 (iv) Receiving compensation for analytical testing, including for contaminants or

4 potency; and

5 (iv) Any combination of the acts described within paragraphs (4)(i) through (4)(iv) of this

6 section, inclusive.

7 (5) The acts listed in subsections (1) through (5) of this section, when undertaken in

8 compliance with the provisions of this chapter, are lawful under Rhode Island law.

9 (6) Except as otherwise provided in subsection (7), in a prosecution for selling,

10 transferring, delivering, giving, or otherwise furnishing marijuana, marijuana products or

11 marijuana paraphernalia to any person who is under twenty-one (21) years of age, it is a complete

12 defense if:

13 (i) The person who sold, gave, or otherwise furnished marijuana, marijuana products, or

14 marijuana paraphernalia to a person who is under twenty-one (21) years of age was a retailer or

15 was acting in his or her capacity as an owner, employee, or agent of a retailer at the time the

16 marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to the person; and

17 (ii) Before selling, giving, or otherwise furnishing marijuana, marijuana products or

18 marijuana paraphernalia to a person who is under twenty-one (21) years of age, the person who

19 sold, gave, or otherwise furnished the marijuana or marijuana paraphernalia, or a staffer or agent

20 of the retailer, was shown a document which appeared to be issued by an agency of a federal,

21 state, tribal, or foreign sovereign government and which indicated that the person to whom the

22 marijuana or marijuana paraphernalia was sold, given, or otherwise furnished was twenty-one

23 (21) years of age or older at the time the marijuana or marijuana paraphernalia was sold, given, or

24 otherwise furnished to the person.

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

26 (i) The document which was shown to the person who sold, gave, or otherwise furnished

27 the marijuana, marijuana products, or marijuana paraphernalia was counterfeit, forged, altered, or

28 issued to a person other than the person to whom the marijuana, marijuana products or marijuana

29 paraphernalia was sold, given, or otherwise furnished; and

30 (ii) Under the circumstances, a reasonable person would have known or suspected that

31 the document was counterfeit, forged, altered, or issued to a person other than the person to

32 whom the marijuana, marijuana products, or marijuana paraphernalia was sold, given, or

33 otherwise furnished.

34 **21-28.9-5. Authorized activities. -- (a) Any person who is twenty-one (21) years of age**

1 or older is authorized to manufacture, produce, use, obtain, purchase, transport, or possess,
2 actually or constructively, marijuana paraphernalia.

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

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

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

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

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

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

20 **21-28.9-7. Activities not exempt. --** The provisions of this chapter do not exempt any
21 person from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state
22 or local licensing board, and state prosecution for, nor may he or she establish an affirmative
23 defense based on this chapter to charges arising from, any of the following acts:

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

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

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

30 **21-28.9-8. Smoking marijuana shall be prohibited in all public places. --** (a) A person
31 who smokes marijuana in an indoor public place shall be guilty of a petty misdemeanor, and may
32 be punished as follows:

33 (1) By a fine of not more than two hundred fifty dollars (\$250), imprisonment for a term
34 not exceeding ten (10) days, or both, for the first violation;

1 (2) By a fine of not more than five hundred dollars (\$500), imprisonment for a term not
2 exceeding thirty (30) days, or both, for the second or subsequent violation.

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

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

7 **21-28.9-9. Places of employment.** -- The provisions of this chapter do not require
8 employers to accommodate the use or possession of marijuana, or being under the influence of
9 marijuana, in a place of employment.

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

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

20 **21-28.9-11. False age representation.** -- Any person who falsely represents himself or
21 herself to be twenty-one (21) years of age or older in order to obtain any marijuana, marijuana
22 products, or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.

23 **21-28.9-12. Medical use.** -- Nothing contained herein shall be construed to repeal or
24 modify any law concerning the medical use of marijuana, including chapter 28.6 of title 21, or
25 tetrahydrocannabinol in other forms, such as Marinol.

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

28 CHAPTER 28.10

29 TAXATION AND REGULATION OF MARIJUANA

30 **21-28.10-1. Definitions.** – For purposes of this chapter:

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

32 (2) "Marijuana" means all parts of the plant of the genus cannabis, whether growing or
33 not; the seeds thereof; the resin extracted from any part of the plant; and every compound,
34 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not

1 include hemp, the mature stalks of the plant, fiber produced from the stalks, oil or cake made
2 from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
3 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the
4 sterilized seed of the plant that is incapable of germination.

5 (3) "Marijuana cultivation facility" means an entity that is registered pursuant to chapter
6 21-28.10, to be exempt from state penalties for cultivating, preparing, packaging, and selling
7 marijuana to a retailer or another marijuana cultivation facility, but not for manufacturing or
8 selling marijuana products or selling marijuana to the general public.

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

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

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

19 (7) "Safety compliance facility" means an entity that is registered pursuant to chapter
20 28.10 of title 21, to be exempt from state penalties for testing marijuana for potency and
21 contaminants.

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

24 **21-28.10-2. Retailer registration.** – Except as otherwise provided in § 21-28.10-5 of this
25 chapter:

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

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

33 (3) Five (5) months after the effective date of this chapter, authorized representatives of
34 properly registered compassion centers may submit a statement of intent to operate as a marijuana

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

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

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

29 (6) The fee for the initial issuance of a registration as a retailer is ten thousand dollars
30 (\$10,000).

31 (7) A registration as a retailer may be renewed annually for a ten thousand dollar
32 (\$10,000) fee. The renewal application may be submitted up to one hundred twenty (120) days
33 before the expiration of the retailer registration.

34 (8) Nothing in this section shall prohibit an entity registered as a retailer or seeking

1 retailer registration from also holding a marijuana cultivation facility registration or seeking
2 registration as a marijuana cultivation facility under § 21-28.10-3.

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

6 **21-28.10-3. Marijuana cultivation facility registration.** – Except as otherwise provided
7 by § 21-28.10-5:

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

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

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

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

29 (5) If the department decides to accept additional applications for marijuana cultivation
30 registrations in order to meet demand, and if more qualifying applicants apply than the
31 department will register, the department shall implement a competitive scoring process to
32 determine to which applicants to grant registrations. The scoring system shall take into account
33 the applicant and managing officers' applicable experience, training, and expertise; the
34 applicant's plan for security and diversion prevention; any criminal, civil, or regulatory issues

1 encountered by other entities the applicant and managing officers have controlled or managed;
2 and the suitability of the proposed location. A compassion center that cultivates marijuana and is
3 registered under §21-28.6-12 shall be given priority over other applicants in any competitive
4 application process.

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

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

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

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

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

26 **21-28.10-4. Safety compliance facility registration.** – Except as otherwise provided in §
27 21-28.10-5:

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

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

1 (3) If a qualified applicant exists, the department shall grant a two (2) year registration to
2 at least two (2) safety compliance facilities within one year of the effective date of this chapter,
3 provided that each facility pays a five thousand dollar (\$5,000) fee. If more qualifying applicants
4 apply than the department will register, the department shall implement a competitive scoring
5 process to determine to which applicants to grant registrations, which may be varied for
6 geographic distribution. The scoring system shall take into account the applicant and managing
7 officers' applicable experience, training, and expertise; the applicant's plan for security and
8 diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the
9 applicant and managing officers controlled or managed; the applicant's plan for services; and the
10 suitability of the proposed location.

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

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

18 **21-28.10-5. Ineligibility for registration.** – A marijuana establishment may not operate,
19 and a prospective marijuana establishment may not apply for a registration, if any of the
20 following are true:

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

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

24 **21-28.10-6. Municipalities.** – Nothing shall prohibit municipalities from enacting
25 ordinances or regulations not in conflict with this section or with department rules regulating the
26 time, place, and manner of marijuana establishments' operations, provided that no local
27 government may prohibit any type of marijuana establishments' operation altogether, either
28 expressly or through the enactment of ordinances or regulations which make any type of
29 marijuana establishments' operation impracticable. Nothing shall prohibit municipalities from
30 imposing civil and criminal penalties on the violation of ordinances enacted pursuant to this
31 section.

32 **21-28.10-7. Advertising and product placement.** – (a) No marijuana establishment or
33 other person may advertise the sale of marijuana in a manner contrary to the regulations
34 established by the department.

1 (b) Film, television, production, and other entertainment companies are prohibited from
2 accepting payment for the product placement of marijuana or marijuana products in any
3 production filmed in Rhode Island.

4 **21-28.10-8. Retailer safety insert.** – A retailer shall:

5 (1) Include a safety insert with all marijuana and marijuana products sold. The safety
6 insert may, at the department's discretion, be developed and approved by the department and
7 shall include, but not be limited to, information on:

8 (i) Methods for administering marijuana;

9 (ii) Any potential dangers stemming from the use of marijuana; and

10 (iii) How to recognize what may be problematic usage of marijuana and obtain
11 appropriate services or treatment for problematic usage.

12 (2) Sell marijuana in its original marijuana cultivation facility packaging without making
13 any changes or repackaging.

14 (3) Sell marijuana products in their original retail packaging without making any changes
15 or repackaging.

16 **21-28.10-9. Warning label on marijuana and marijuana products.** – (a) A marijuana
17 cultivation facility must create a unique package and label for its marijuana identifying itself as
18 the producer.

19 (b) A marijuana retailer that produces marijuana products must create a unique package
20 and label for its marijuana products identifying itself as the producer.

21 (c) Each package's label shall include:

22 (1) The name or registration number of the marijuana cultivation facility that produced
23 the marijuana, and, in the case of marijuana products, the retailer that produced the marijuana
24 products;

25 (2) If a safety compliance facility is operational, the potency of the marijuana, as
26 determined by testing by a safety compliance facility, represented by the percentage of
27 tetrahydrocannabinol by mass;

28 (3) A "produced on" date; and

29 (4) Warnings that state: "Consumption of marijuana impairs your ability to drive a car or
30 operate machinery," "Keep away from children," and, unless federal or state laws have changed,
31 "Possession of marijuana is illegal outside of Rhode Island and under federal law."

32 **21-28.10-10. Marijuana cultivation facilities.** – (a) All marijuana cultivated by
33 marijuana cultivation facilities shall be cultivated only in enclosed, locked facilities registered
34 with the department. An "enclosed, locked facility" may include a building, room, greenhouse,

1 fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or
2 other security devices.

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

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

7 (2) Government employees performing their official duties;

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

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

14 **21-28.10-11. Transportation of marijuana.** – (a) A marijuana establishment or any
15 person who is acting in his or her capacity as an owner, employee, or agent of a marijuana
16 establishment must have documentation when transporting marijuana on behalf of the marijuana
17 establishment that specifies the amount of marijuana being transported, the registry identification
18 number of the marijuana establishment, the date the marijuana is being transported, and, if the
19 marijuana is being transported to another marijuana establishment, the registry identification
20 number of the intended marijuana establishment the marijuana is being transported to.

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

25 **21-28.10-12. Minors on the premises of marijuana establishment.** – (a) A marijuana
26 establishment shall not allow any person who is under twenty-one (21) years of age to be present
27 inside any room where marijuana or marijuana products are stored, produced, or sold by the
28 marijuana establishment unless the person who is under twenty-one (21) years of age is:

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

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

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

1 patient registered under chapter 28.9 of title 21.

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

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

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

16 **21-28.10-13. Retailer violations.** – (1) Sell, give, deliver, or otherwise furnish marijuana,
17 marijuana products, or marijuana paraphernalia to any person who is under twenty-one (21) years
18 of age unless the retailer premises are also registered as a compassion center under § 21-28.6-12
19 and the individual under twenty-one (21) years of age is a qualifying patient registered under
20 chapter 28.9 of title 21.

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

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

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

27 (ii) Two (2) immature marijuana plants;

28 (iii) Five (5) grams of hashish;

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

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

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

34 (5) The prohibitions on dispensing marijuana in subsections (2) and (3) of this section do

1 not apply in instances where the retailer has verified that the person is a qualifying patient or
2 primary caregiver registered under chapter 28.9 of title 21 and the amount of marijuana dispensed
3 is within the qualifying patient's limits;

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

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

7 (8) Violate regulations issued by the department;

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

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

16 **21-28.10-14. Marijuana cultivation facility violations.** – (a) A marijuana cultivation
17 facility shall not:

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

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

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

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

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

30 **21-28.10-15. Operation of a retailer or cultivation facility before rulemaking.** – Any
31 retailer or cultivation facility that is registered before the department has completed rulemaking
32 must comply with security regulations issued by the department of health for compassion centers
33 until the department's rulemaking has been finalized.

34 **21-28.10-16. Suspension or termination of registration.** – The department may

1 suspend or terminate the registration of a marijuana establishment that commits multiple or
2 serious violations of this chapter or reasonable regulations issued pursuant to it. No later than
3 ninety (90) days after the effective date of this chapter, the department shall promulgate
4 regulations governing the procedures for suspending, revoking, or terminating the registration of
5 marijuana establishments. These procedures must ensure due process rights are adhered to.

6 **21-28.10-17. Excise tax.** – (a) An excise tax is hereby levied upon marijuana cultivation
7 facilities and must be collected respecting all marijuana sold or transferred to retailers.

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

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

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

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

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

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

28 (3) After retaining sufficient money to defray the entire cost of administration of this
29 chapter pursuant to subsection (1) of this section and remitting sufficient money to the department
30 of health pursuant to subsection (2) of this section, the department shall remit the remaining
31 money to the Rhode Island general fund, forty percent (40%) of which must be distributed to the
32 Rhode Island department of health for use in voluntary programs for the prevention or treatment
33 of the abuse of alcohol, tobacco, or controlled substances, and ten percent (10%) of which must
34 be spent on drug recognition expert training for members of Rhode Island law enforcement.

1 **21-28.10-19. Contracts enforceable.** – It is the public policy of the state that contracts
2 related to the operation of a marijuana cultivation facility, retailer, safety compliance facility,
3 compassion center, or hemp cultivator registered pursuant to Rhode Island law should be
4 enforceable. It is the public policy of the state that no contract entered into by a registered
5 marijuana establishment or hemp cultivator or its employees or agents as permitted pursuant to a
6 valid registration with a department of the state, or by those who allow property to be used by an
7 establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be
8 unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing,
9 transporting, selling, possessing, or using marijuana or hemp is prohibited by federal law.

10 **21-28.10-20. Department regulations.** – (a) The department is responsible for
11 administering and carrying out the provisions of this chapter.

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

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

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

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

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

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

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

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

28 (ii) A nutritional fact panel for marijuana products;

29 (iii) Marijuana products to be distributed in opaque, child resistant packaging, which
30 must be designed or constructed to be significantly difficult for children under five (5) years of
31 age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20
32 (1995); and

33 (iv) The dissemination of educational materials to consumers who purchase marijuana-
34 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;

1 (15) Prohibit or regulate additives to marijuana and marijuana-infused products,
2 including, but not limited to, those that are toxic, designed to make the product more addictive,
3 designed to make the product more appealing to children, or misleading to consumers; the
4 prohibition may not extend to common baking and cooking items;

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

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

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

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

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

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

18 (f) The department shall not require:

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

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

23 **21-28.10-21. Failure of department to adopt regulations.** – (a) The department shall
24 adopt regulations to implement this chapter. Within three (3) months of the effective date of this
25 chapter, the department shall begin accepting applications for marijuana establishments from
26 persons or entities who hold a current compassion center registration under § 21-28.6-12.

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

30 (c) If the department fails to adopt regulations to implement this chapter or fails to begin
31 processing applications for marijuana establishments within one hundred eighty (180) days of the
32 effective date of this chapter, any citizen may commence an action in a court of competent
33 jurisdiction to compel the department to perform the actions mandated pursuant to the provisions
34 of this chapter.

1 SECTION 3. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 70

4 SPECIAL SALES TAX ON RETAIL MARIJUANA

5 **44-70-1. Imposition of special sales tax on retail marijuana.** – (a) Except as provided
6 for in subsection (b) of this section, a sales tax at a rate of ten percent (10%) shall be imposed on
7 all retail sales of marijuana in accordance with the laws of, and regulations enacted through the
8 authority of, title 21.

9 (b) The special sales tax does not apply to marijuana sales from a registered compassion
10 center to a registered qualifying patient or a registered primary caregiver pursuant to § 21-28.6-
11 12.

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

14 **44-18-7. Sales defined.** -- "Sales" means and includes:

15 (1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or
16 otherwise, in any manner or by any means of tangible personal property for a consideration.
17 "Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator
18 to be in lieu of a transfer of title, exchange, or barter.

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

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

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

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

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

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

1 publication.

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

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

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

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

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

23 (12) The transfer for consideration of prepaid telephone calling arrangements and the
24 recharge of prepaid telephone calling arrangements sourced to this state in accordance with §§
25 44-18.1-11 and 44-18.1-15. "Prepaid telephone calling arrangement" means and includes prepaid
26 calling service and prepaid wireless calling service.

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

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

31 ~~(15) The sale, storage, use or other consumption of medical marijuana as defined in § 21-~~
32 ~~28.6-3.~~

33 ~~(16)~~(15) The furnishing of services in this state as defined in § 44-18-7.3.

34 SECTION 5. Sections 12-1.3-2 and 12-1.3-3 of the General Laws in Chapter 12-1.3

1 entitled "Expungement of Criminal Records" are hereby amended to read as follows:

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

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

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

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

17 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.** -- (a)
18 Any person filing a motion for expungement of the records of his or her conviction pursuant to §
19 12-1.3-2 shall give notice of the hearing date set by the court to the department of the attorney
20 general and the police department which originally brought the charge against the person at least
21 ten (10) days prior to that date.

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

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

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

32 (c) If the court grants the motion, it shall, after payment by the petitioner of a one
33 hundred dollar (\$100) fee to be paid to the court order all records and records of conviction
34 relating to the conviction expunged and all index and other references to it deleted. A copy of the

1 order of the court shall be sent to any law enforcement agency and other agency known by either
2 the petitioner, the department of the attorney general, or the court to have possession of the
3 records. Compliance with the order shall be according to the terms specified by the court.

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

12 SECTION 6. Sections 21-28-4.1, 21-28-4.1.1, and 21-28-4.1.2 of the General Laws in
13 Chapter 21-28 entitled "Uniform Controlled Substances Act" are hereby amended to read as
14 follows:

15 **21-28-4.01. Prohibited acts A -- Penalties.** -- (a) (1) Except as authorized by this
16 chapter, or as exempted from criminal penalties pursuant to chapters 28.9 or 28.10 of title 21, it
17 shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or
18 deliver a controlled substance.

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

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

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

33 (i) A controlled substance, classified in schedule I or II, except the substance classified
34 as marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than thirty

1 (30) years, or fined not more than one hundred thousand dollars (\$100,000) nor less than three
2 thousand dollars (\$3,000), or both;

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

7 (iii) The delivery of marijuana is guilty of a crime and upon conviction may be
8 imprisoned for not more than ten (10) years, or fined not more than one hundred thousand dollars
9 (\$100,000) nor less than one thousand dollars (\$1,000), or both.

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

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

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

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

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

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

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

32 (c) (1) It shall be unlawful for any person knowingly or intentionally to possess a
33 controlled substance, unless the substance was obtained directly from, or pursuant to, a valid
34 prescription or order of a practitioner while acting in the course of his or her professional

1 practice, or except as otherwise authorized by this chapter [or exempt from arrest by chapters 28.9](#)
2 [or 28.10 of title 21.](#)

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

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

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

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

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

1 hours of instruction or group discussion, and ten (10) hours of community service.
2 Notwithstanding any other public, special or general law to the contrary, this civil penalty shall
3 apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen (18)
4 months.

5 (v) Notwithstanding any public, special, or general law to the contrary, a person not
6 exempted from penalties pursuant to chapter 28.6 of this title found in possession of one ounce (1
7 oz.) or less of marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for
8 not more than thirty (30) days or fined not less than two hundred dollars (\$200) nor more than
9 five hundred dollars (\$500), or both, if that person has been previously adjudicated on a violation
10 for possession of less than one ounce (1 oz.) of marijuana under § 21-28-4.01(c)(2)(iii) or 21-28-
11 4.01(c)(2)(iv) two (2) times in the eighteen (18) months prior to the third (3rd) offense.

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

16 (vii) No person may be arrested for a violation of § 21-28-4.01(c)(2)(iii) or 21-28-
17 4.01(c)(2)(iv) except as provided in this subparagraph. Any person in possession of an
18 identification card, license, or other form of identification issued by the state or any state, city, or
19 town, or any college or university, who fails to produce the same upon request of a police officer
20 who informs the person that he or she has been found in possession of what appears to the officer
21 to be one ounce (1 oz.) or less of marijuana, or any person without any such forms of
22 identification that fails or refuses to truthfully provide his or her name, address, and date of birth
23 to a police officer who has informed such person that the officer intends to provide such
24 individual with a citation for possession of one ounce (1 oz.) or less of marijuana, may be
25 arrested.

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

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

31 (3) Jurisdiction. - Any and all violations of § 21-28-4.01(c)(2)(iii) and 21-28-
32 4.01(c)(2)(iv) shall be the exclusive jurisdiction of the Rhode Island traffic tribunal. All money
33 associated with the civil fine issued under § 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be
34 payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines collected by the

1 Rhode Island traffic tribunal from civil penalties issued pursuant to § 21-28-4.01(c)(2)(iii) or 21-
2 28-4.01(c)(2)(iv) shall be expended on drug awareness and treatment programs for youth.

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

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

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

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

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

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

22 (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent
23 to manufacture or distribute, an imitation controlled substance. Any person who violates this
24 subsection is guilty of a crime and upon conviction shall be subject to the same term of
25 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
26 controlled substance that the particular imitation controlled substance forming the basis of the
27 prosecution was designed to resemble and/or represented to be; but in no case shall the
28 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
29 (\$20,000).

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

1 than one thousand dollars (\$1,000), or both.

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

12 **21-28-4.01.1. Minimum sentence -- Certain quantities of controlled substances.** -- (a)

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

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

19 (2) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
20 detectable amount of:

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

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

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

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

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

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

33 ~~(5) One kilogram (1 kg.) to five (5 kgs.) kilograms of a mixture containing a detectable~~
34 ~~amount of marijuana; or~~

1 ~~(6)~~(5) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
2 detectable amount of synthetic drugs.

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

6 **21-28-4.01.2. Minimum sentence -- Certain quantities of controlled substances. --** (a)
7 Except as authorized by the chapter, it shall be unlawful for any person to possess, manufacture,
8 sell, or deliver the following enumerated quantities of certain controlled substances:

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

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

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

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

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

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

19 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand
20 (1,000) tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

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

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

26 ~~(6)~~(5) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
27 amount of synthetic drugs.

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

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

32 **21-28-4.23. Marijuana exemption. --** [The penalties provided for in this chapter do not](#)
33 [apply to those exempted from criminal penalties pursuant to chapters 28.9 or 28.10 of title 21.](#)

34 SECTION 8. Chapter 31-22 of the General Laws entitled "Miscellaneous Rules" is

1 hereby amended by adding thereto the following section:

2 **31-22-31. Consuming marijuana in a moving vehicle.** – (a) No person shall consume
3 marijuana while driving a motor vehicle on any public street or public highway within the state.

4 (b) No person shall smoke marijuana while he or she is a passenger in a motor vehicle
5 that being operated on any public street or public highway within the state.

6 (c) Any person found in violation of this section may be fined not more than two hundred
7 dollars (\$200) or have his or her driver's license suspended for up to six (6) months, or both, for
8 the first violation, and for each subsequent violation may be fined not more than five hundred
9 dollars (\$500) or have his or her driver's license suspended for up to one year, or both.

10 (d) The original jurisdiction of this section shall be exclusively in the traffic tribunal.

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

13 **31-27-2. Driving under influence of liquor or drugs. [Effective January 1, 2015.] --**

14 (a) Whoever drives or otherwise operates any vehicle in the state while under the influence of any
15 intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of title 21,
16 or any combination of these, shall be guilty of a misdemeanor except as provided in subdivision
17 (d)(3) and shall be punished as provided in subsection (d) of this section.

18 (b) (1) Any person charged under subsection (a) of this section whose blood alcohol
19 concentration is eight one-hundredths of one percent (.08%) or more by weight, as shown by a
20 chemical analysis of a blood, breath, or urine sample, shall be guilty of violating subsection (a) of
21 this section. This provision shall not preclude a conviction based on other admissible evidence.
22 Proof of guilt under this section may also be based on evidence that the person charged was under
23 the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter
24 28 of title 21, or any combination of these, to a degree that rendered the person incapable of
25 safely operating a vehicle. The fact that any person charged with violating this section is, or has
26 been, legally entitled to use alcohol or a drug shall not constitute a defense against any charge of
27 violating this section. A person twenty-one (21) years of age or older or a person exempt from
28 criminal penalties for the medical use of marijuana pursuant to chapter 28.6 of title 21 shall not be
29 considered under the influence of marijuana solely because of the presence of marijuana
30 metabolites or components of marijuana unless the concentration of components of marijuana is
31 proven to be sufficient to cause impairment.

32 (2) ~~Whoever~~ Except as provided in this section, whoever drives, or otherwise operates,
33 any vehicle in the state with a blood presence of any scheduled controlled substance as defined
34 within chapter 28 of title 21, as shown by analysis of a blood or urine sample, shall be guilty of a

1 misdemeanor and shall be punished as provided in subsection (d) of this section.

2 (c) In any criminal prosecution for a violation of subsection (a) of this section, evidence
3 as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter
4 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown
5 by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance, shall
6 be admissible and competent, provided that evidence is presented that the following conditions
7 have been complied with:

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

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

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

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

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

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

30 (d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be
31 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-
32 hundredths of one percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who
33 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2), shall
34 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred

1 dollars (\$300); shall be required to perform ten (10) to sixty (60) hours of public community
2 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
3 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
4 required to attend a special course on driving while intoxicated or under the influence of a
5 controlled substance; provided, however, that the court may permit a servicemember or veteran to
6 complete any court-approved counseling program administered or approved by the Veterans'
7 Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
8 hundred eighty (180) days. The sentencing judge or magistrate may prohibit that person from
9 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
10 31-27-2.8.

11 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-
12 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
13 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less
14 than one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required
15 to perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned
16 for up to one year. The sentence may be served in any unit of the adult correctional institutions in
17 the discretion of the sentencing judge. The person's driving license shall be suspended for a
18 period of three (3) months to twelve (12) months. The sentencing judge shall require attendance
19 at a special course on driving while intoxicated or under the influence of a controlled substance
20 and/or alcoholic or drug treatment for the individual; provided, however, that the court may
21 permit a servicemember or veteran to complete any court-approved counseling program
22 administered or approved by the Veterans' Administration. The sentencing judge or magistrate
23 may prohibit that person from operating a motor vehicle that is not equipped with an ignition
24 interlock system as provided in § 31-27-2.8.

25 (iii) Every person convicted of a first offense whose blood alcohol concentration is
26 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,
27 toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to a fine of
28 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of
29 public community restitution and/or shall be imprisoned for up to one year. The sentence may be
30 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.
31 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)
32 months. The sentencing judge shall require attendance at a special course on driving while
33 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for
34 the individual; provided, however, that the court may permit a servicemember or veteran to

1 complete any court-approved counseling program administered or approved by the Veterans'
2 Administration. The sentencing judge or magistrate shall prohibit that person from operating a
3 motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

4 (2) (i) Every person convicted of a second violation within a five-year (5) period with a
5 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
6 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or
7 who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every
8 person convicted of a second violation within a five-year (5) period, regardless of whether the
9 prior violation and subsequent conviction was a violation and subsequent conviction under this
10 statute or under the driving under the influence of liquor or drugs statute of any other state, shall
11 be subject to a mandatory fine of four hundred dollars (\$400). The person's driving license shall
12 be suspended for a period of one year to two (2) years, and the individual shall be sentenced to
13 not less than ten (10) days, nor more than one year, in jail. The sentence may be served in any
14 unit of the adult correctional institutions in the discretion of the sentencing judge; however, not
15 less than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing
16 judge shall require alcohol or drug treatment for the individual; provided, however, that the court
17 may permit a servicemember or veteran to complete any court-approved counseling program
18 administered or approved by the Veterans' Administration and shall prohibit that person from
19 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
20 31-27-2.8.

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

33 (3) (i) Every person convicted of a third or subsequent violation within a five-year (5)
34 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or

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

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

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

33 (4) Whoever drives or otherwise operates any vehicle in the state while under the
34 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in

1 chapter 28 of title 21, or any combination of these, when his or her license to operate is
2 suspended, revoked, or cancelled for operating under the influence of a narcotic drug or
3 intoxicating liquor, shall be guilty of a felony punishable by imprisonment for not more than three
4 (3) years and by a fine or not more than three thousand dollars (\$3,000). The court shall require
5 alcohol and/or drug treatment for the individual; provided, the penalties provided for in § 31-27-
6 2(d)(4) shall not apply to an individual who has surrendered his or her license and served the
7 court-ordered period of suspension, but who, for any reason, has not had his or her license
8 reinstated after the period of suspension, revocation, or suspension has expired; provided, further,
9 the individual shall be subject to the provisions of §§ 31-27-2(d)(2)(i) or (ii) or 31-27-22(d)(3)(i),
10 (ii), or (iii) regarding subsequent offenses, and any other applicable provision of § 31-27-2.

11 (5) (i) For purposes of determining the period of license suspension, a prior violation
12 shall constitute any charge brought and sustained under the provisions of this section or § 31-27-
13 2.1.

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

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

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

27 (7) (i) If the person convicted of violating this section is under the age of eighteen (18)
28 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
29 public community restitution and the juvenile's driving license shall be suspended for a period of
30 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
31 judge shall also require attendance at a special course on driving while intoxicated or under the
32 influence of a controlled substance and alcohol or drug education and/or treatment for the
33 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than
34 five hundred dollars (\$500) and the assessment imposed shall be deposited into the general fund.

1 (ii) If the person convicted of violating this section is under the age of eighteen (18)
2 years, for a second or subsequent violation regardless of whether any prior violation and
3 subsequent conviction was a violation and subsequent under this statute or under the driving
4 under the influence of liquor or drugs statute of any other state, he or she shall be subject to a
5 mandatory suspension of his or her driving license until such time as he or she is twenty-one (21)
6 years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode
7 Island training school for a period of not more than one year and/or a fine of not more than five
8 hundred dollars (\$500).

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

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

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

27 (2) Persons convicted under the provisions of this chapter shall be required to attend a
28 special course on driving while intoxicated or under the influence of a controlled substance,
29 and/or participate in an alcohol or drug treatment program; provided, however, that the court may
30 permit a servicemember or veteran to complete any court-approved counseling program
31 administered or approved by the Veterans' Administration. The course shall take into
32 consideration any language barrier that may exist as to any person ordered to attend, and shall
33 provide for instruction reasonably calculated to communicate the purposes of the course in
34 accordance with the requirements of the subsection. Any costs reasonably incurred in connection

1 with the provision of this accommodation shall be borne by the person being retrained. A copy of
2 any violation under this section shall be forwarded by the court to the alcohol and drug safety
3 unit. In the event that persons convicted under the provisions of this chapter fail to attend and
4 complete the above course or treatment program, as ordered by the judge, then the person may be
5 brought before the court, and after a hearing as to why the order of the court was not followed,
6 may be sentenced to jail for a period not exceeding one year.

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

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

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

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

24 (j) An order to attend a special course on driving while intoxicated that shall be
25 administered in cooperation with a college or university accredited by the state, shall include a
26 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
27 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
28 the general fund.

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

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

1 the controversy giving rise to the judgment.

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

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

9 **31-27-2.4. Driving while in possession of controlled substances.** -- (a) In addition to
10 any other penalty prescribed by law, whoever operates any motor vehicle while knowingly having
11 in the motor vehicle or in his or her possession, a controlled substance, as defined in § 21-28-
12 1.02, ~~except for possession of up to one ounce (1 oz.) of marijuana,~~ shall have his or her license
13 suspended for a period of six (6) months.

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

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

19 **44-11-11. "Net income" defined.** -- (a) (1) "Net income" means, for any taxable year
20 and for any corporate taxpayer, the taxable income of the taxpayer for that taxable year under the
21 laws of the United States, except as provided for in § 44-11-11(e), plus:

- 22 (i) Any interest not included in the taxable income;
- 23 (ii) Any specific exemptions;
- 24 (iii) The tax imposed by this chapter; and minus
- 25 (iv) Interest on obligations of the United States or its possessions, and other interest
26 exempt from taxation by this state; and
- 27 (v) The federal net operating loss deduction.

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

34 (b) A net operating loss deduction shall be allowed which shall be the same as the net

1 operating loss deduction allowed under 26 U.S.C. § 172, except that:

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

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

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

11 (c) "Domestic international sales corporations" (referred to as DISCs), for the purposes
12 of this chapter, will be treated as they are under federal income tax law and shall not pay the
13 amount of the tax computed under § 44-11-2(a). Any income to shareholders of DISCs is to be
14 treated in the same manner as it is treated under federal income tax law as it exists on December
15 31, 1984.

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

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

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

28 **44-49-17. No tax stamp required. --** Controlled substance tax payment with a stamp or
29 other official indicia, as referred to in § 44-49-5, is not required for marijuana establishments and
30 the penalties provided for in this chapter do not apply to those acting in accordance with the laws
31 of and regulations enacted through the authority of title 21.

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

34 CHAPTER 26

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

1 [title 21, including any limitation on the number of marijuana plants that the person may cultivate.](#)

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

8 **2-26-6. Exemption from state penalties.** -- (a) [It is not a violation of state or local law](#)
9 [for a person to plant, grow, harvest, possess, process, sell, and buy hemp if that person does so in](#)
10 [compliance with this chapter and rules adopted in accordance with it.](#)

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

13 SECTION 14. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FOOD AND DRUGS - TAXATION AND REGULATION OF MARIJUANA

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.

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