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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.  
SLATER MEDICAL MARIJUANA ACT

Introduced By: Representative Scott Slater

Date Introduced: March 02, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28.6-4 of the General Laws in Chapter 21-28.6 entitled "The  
2 Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" is hereby amended to read as  
3 follows:

4 **21-28.6-4. Protections for the medical use of marijuana.** -- (a) A patient cardholder  
5 who has in his or her possession a registry identification card shall not be subject to arrest,  
6 prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited  
7 to, civil penalty or disciplinary action by a business or occupational or professional licensing  
8 board or bureau, for the medical use of marijuana; provided, that the patient cardholder possesses  
9 an amount of marijuana that does not exceed twelve (12) mature marijuana plants and two and  
10 one-half (2.5) ounces of usable marijuana. Said plants shall be stored in an indoor facility.

11 (b) A patient cardholder, who has in his or her possession a registry identification card,  
12 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or  
13 privilege, including, but not limited to, civil penalty or disciplinary action by a business or  
14 occupational or professional licensing board or bureau, for selling, giving, or distributing  
15 marijuana of the type, and in an amount not to exceed, that set forth in subsection (a) above, that  
16 he or she has cultivated or manufactured pursuant to this chapter, to a compassion center  
17 cardholder.

18 (c) No school, ~~employer,~~ or landlord may refuse to enroll, ~~employ,~~ or lease to, or

1 otherwise penalize, a person ~~solely for~~ because his or her status as a cardholder. Provided,  
2 however, due to the safety and welfare concern for other tenants, the property, and the public, as a  
3 whole, a landlord may have the discretion not to lease, or continue to lease, to a cardholder who  
4 cultivates marijuana in the leased premises.

5 (d) It shall be unlawful for any employer to refuse to hire, discharge, or otherwise  
6 discriminate against a person with respect to any terms, conditions or privileges of employment,  
7 or any other matter directly or indirectly related to employment because of their status as a  
8 cardholder, including because of a positive drug test for marijuana components or metabolites,  
9 unless the patient cardholder possessed or was impaired on the premises of the place of  
10 employment or during the hours of employment.

11 ~~(d)~~(e) A primary caregiver cardholder, who has in his or her possession, a registry  
12 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied  
13 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a  
14 business or occupational or professional licensing board or bureau, for assisting a patient  
15 cardholder, to whom he or she is connected through the department's registration process, with  
16 the medical use of marijuana; provided, that the primary caregiver cardholder possesses an  
17 amount of marijuana that does not exceed twelve (12) mature marijuana plants and two and one-  
18 half (2.5) ounces of usable marijuana for each patient cardholder to whom he or she is connected  
19 through the department's registration process.

20 ~~(e)~~(f) A cardholder shall be allowed to possess a reasonable amount of unusable  
21 marijuana, including up to twelve (12) seedlings, that shall not be counted toward the limits in  
22 this section.

23 ~~(f)~~(g) There shall exist a presumption that a cardholder is engaged in the medical use of  
24 marijuana if the cardholder:

25 (1) Is in possession of a registry identification card; and

26 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted  
27 under this chapter. Such presumption may be rebutted by evidence that conduct related to  
28 marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical  
29 condition or symptoms associated with the medical condition.

30 ~~(g)~~(h) A primary caregiver cardholder may receive reimbursement for costs associated  
31 with assisting a patient cardholder's medical use of marijuana. Compensation shall not constitute  
32 sale of controlled substances.

33 ~~(h)~~(i) A natural person primary caregiver cardholder, who has in his or her possession a  
34 registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner,

1 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action  
2 by a business or occupational or professional licensing board or bureau, for selling, giving, or  
3 distributing marijuana, of the type, and in an amount not to exceed that, set forth in subsection (d)  
4 above, to a compassion center cardholder if:

5 (1) The natural person primary caregiver cardholder cultivated the marijuana pursuant to  
6 this chapter, not to exceed the limits of paragraph (d) above; and

7 (2) Each patient cardholder the caregiver cardholder is connected with through the  
8 department's registration process has been provided an adequate amount of the marijuana to meet  
9 his or her medical needs, not to exceed the limits of subsection (a) above.

10 ~~(j)~~(j) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner,  
11 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action  
12 by the Rhode Island board of medical licensure and discipline, or by any other business or  
13 occupational or professional licensing board or bureau solely for providing written certifications,  
14 or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the  
15 medical marijuana would likely outweigh the health risks for a patient.

16 ~~(k)~~(k) Any interest in, or right to, property that is possessed, owned, or used in  
17 connection with the medical use of marijuana, or acts incidental to such use, shall not be  
18 forfeited.

19 ~~(l)~~(l) No person shall be subject to arrest or prosecution for constructive possession,  
20 conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the  
21 presence or vicinity of the medical use of marijuana as permitted under this chapter, or for  
22 assisting a patient cardholder with using or administering marijuana.

23 ~~(m)~~(m) A practitioner nurse or pharmacist shall not be subject to arrest, prosecution, or  
24 penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty  
25 or disciplinary action by a business or occupational or professional licensing board or bureau  
26 solely for discussing the benefits or health risks of medical marijuana or its interaction with other  
27 substances with a patient.

28 ~~(n)~~(n) A registry identification card, or its equivalent, issued under the laws of another  
29 state, U.S. territory, or the District of Columbia, to permit the medical use of marijuana by a  
30 patient with a debilitating medical condition, or to permit a person to assist with the medical use  
31 of marijuana by a patient with a debilitating medical condition, shall have the same force and  
32 effect as a registry identification card issued by the department.

33 ~~(o)~~(o) Notwithstanding the provisions of § 21-28.6-4(d) or § 21-28.6-4(e), no primary  
34 caregiver cardholder, other than a compassion center, shall possess an amount of marijuana in

1 excess of twenty-four (24) marijuana plants and five (5) ounces of usable marijuana for patient  
2 cardholders to whom he or she is connected through the department's registration process.

3 ~~(p)~~(p) A cardholder may give marijuana to another cardholder to whom they are not  
4 connected by the department's registration process, provided that no consideration is paid for the  
5 marijuana, and that the recipient does not exceed the limits specified in § 21-28.6-4.

6 ~~(q)~~(q) For the purposes of medical care, including organ transplants, a patient  
7 cardholder's authorized use of marijuana shall be considered the equivalent of the authorized use  
8 of any other medication used at the direction of a physician, and shall not constitute the use of an  
9 illicit substance.

10 SECTION 2. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and  
11 Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following  
12 sections:

13 **21-28.6-15. Civil liability.** -- A person whose rights under §21-18.6-4 have been violated  
14 may commence a civil action for injunctive relief and other appropriate equitable relief, and for  
15 the award of compensatory and exemplary damages, within three (3) years after the occurrence of  
16 the alleged violation of this chapter. An aggrieved person who prevails in an action authorized by  
17 this section, in addition to other relief, is entitled to an award of the costs of the litigation and  
18 reasonable attorney's fees in an amount to be fixed by the court.

19 **21-28.6-16. Medical marijuana -- State preemption.** -- The regulation of medical  
20 marijuana and compassion centers shall rest solely with the state, except as otherwise specifically  
21 provided in this chapter.

22 SECTION 3. Section 28-6.5-2 of the General Laws in Chapter 28-6.5 entitled "Urine and  
23 Blood Tests as a Condition of Employment" is hereby amended to read as follows:

24 **28-6.5-2. Testing of prospective employees.** -- (a) Except as provided in subsections (b)  
25 and (c) of this section, an employer may require a job applicant to submit to testing of his or her  
26 blood, urine or any other bodily fluid or tissue if:

27 (1) The job applicant has been given an offer of employment conditioned on the  
28 applicant's receiving a negative test result;

29 (2) The applicant provides the test sample in private, outside the presence of any person;  
30 and

31 (3) Positive tests of urine, blood, or any other bodily fluid or tissue are confirmed by a  
32 federal certified laboratory by means of gas chromatography/mass spectrometry or technology  
33 recognized as being at least as scientifically accurate.

34 (b) The pre-employment drug testing authorized by this section shall not extend to job

1 applicants for positions with any agency or political subdivision of the state or municipalities,  
2 except for applicants seeking employment as a law enforcement or correctional officer,  
3 firefighter, or any other position where that testing is required by federal law or required for the  
4 continued receipt of federal funds.

5 (c) An employer shall not be required to comply with the conditions of testing under  
6 subsection (a) of this section to the extent they are inconsistent with federal law.

7 [\(d\) Any testing authorized by this chapter shall be subject to the provisions of §21-28.6-4.](#)

8 SECTION 4. 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 -- THE EDWARD O. HAWKINS AND THOMAS C.  
SLATER MEDICAL MARIJUANA ACT

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1           This act would prohibit employers from refusing to hire, discharging or otherwise  
2   discriminating against any individual on account of their medical use of marijuana and would  
3   include situations where said employee tested positive for marijuana components. It would also  
4   make drug testing under §28-6.5-2 subject to the protections of this act.

5           This act would take effect upon passage.

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