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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 - TAXATION AND REGULATION OF MARIJUANA

Introduced By: Senators Miller, McCaffrey, Ruggerio, Kettle, and Metts

Date Introduced: February 11, 2016

Referred To: Senate 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 an  
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 is 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, taxpaying businesses.

19 (4) In Colorado, after more than two (2) years of allowing licensed retail stores to sell

1 small amounts of marijuana to adults, there is little evidence that regulating marijuana like  
2 alcohol has caused any significant, adverse social harms. Colorado is as healthy and safe today as  
3 it was 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, or 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 establishment" means a marijuana cultivation facility, processor, retailer,  
21 or safety compliance facility.

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

27 (6) "Marijuana processor" means an entity registered pursuant to chapter 28.10 of title 21  
28 to be exempt from state penalties for purchasing marijuana from marijuana cultivation facilities,  
29 manufacturing marijuana products, and selling, giving, or transferring marijuana products to a  
30 marijuana retailer or a safety compliance center.

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

34 (8) "Public place" means any street, alley, park, sidewalk, public building other than

1 individual dwellings, or any place of business or assembly open to or frequented by the public,  
2 and any other place to which the public has access, except that it does not include a retailer with  
3 local approval to allow on-site consumption.

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

9 (10) "Safety compliance facility" means an entity that is registered pursuant to chapter  
10 28.10 of title 21 to be exempt from state penalties for testing marijuana and marijuana products  
11 for potency and contaminants.

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

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

17 **21-28.9-4. Exempt activities. --** Except as otherwise provided in this chapter:

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

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

23 (ii) Actually and constructively using, obtaining, purchasing, transporting, or possessing  
24 marijuana products containing no more than three hundred milligrams (300 mg) of delta-9-  
25 tetrahydrocannabinol;

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

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

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

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

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

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

6 (ix) Aiding and abetting another person who is twenty-one (21) years of age or older in  
7 the actions allowed under this chapter;

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

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

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

16 (xiii) Any combination of the acts described within subsections (1)(i) through (1)(xii) of  
17 this section, inclusive.

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

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

25 (ii) Transporting or possessing, actually or constructively, marijuana products that were  
26 purchased from a processor or a retailer;

27 (iii) Obtaining or purchasing marijuana from a marijuana cultivation facility or marijuana  
28 and marijuana products from a processor or a retailer;

29 (iv) Selling, delivering, or transferring marijuana or marijuana products to another  
30 retailer;

31 (v) Manufacturing, possessing, producing, obtaining, or purchasing marijuana  
32 paraphernalia;

33 (vi) Selling, transferring, or delivering marijuana, including seedlings or cuttings,  
34 marijuana products, or marijuana paraphernalia to any person who is twenty-one (21) years of age

1 or older;  
2 (vii) Transferring or delivering marijuana or marijuana products to a safety compliance  
3 facility;  
4 (viii) Controlling any premises or vehicle where marijuana, marijuana products, and  
5 marijuana paraphernalia are possessed, sold, or deposited in a manner that is not in conflict with  
6 this chapter or department regulations; and  
7 (ix) Any combination of the acts described within subsections (2)(i) through (2)(vii) of  
8 this section, inclusive.  
9 (3) Except as provided in this chapter and chapter 28.10 of title 21, a marijuana  
10 cultivation facility or any person who is twenty-one (21) years of age or older and acting in their  
11 capacity as an owner, principal officer, partner, board member, employee, or agent of a marijuana  
12 cultivation facility is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets,  
13 discipline by any state or local licensing board, and state prosecution for the following acts:  
14 (i) Cultivating, packing, processing, transporting, or manufacturing marijuana, but not  
15 marijuana products;  
16 (ii) Transporting or possessing marijuana that was produced by the marijuana cultivation  
17 facility or another marijuana cultivation facility;  
18 (iii) Transporting or possessing marijuana seeds;  
19 (iv) Possessing, transporting, or producing marijuana paraphernalia;  
20 (v) Selling, delivering, or transferring marijuana to a retailer, marijuana processor, or a  
21 marijuana cultivation facility;  
22 (vi) Purchasing marijuana from a marijuana cultivation facility;  
23 (vii) Purchasing or otherwise receiving marijuana seeds from a person who is twenty-one  
24 (21) years of age or older;  
25 (viii) Delivering or transferring marijuana to a safety compliance facility;  
26 (ix) Controlling any premises or vehicle where marijuana and marijuana paraphernalia  
27 are possessed, manufactured, sold, or deposited; and  
28 (x) Any combination of the acts described within subsections (3)(i) through (3)(ix) of this  
29 section, inclusive.  
30 (4) Except as provided in this chapter and chapter 28.10 of title 21, a marijuana processor  
31 facility or any person who is twenty-one (21) years of age or older and acting in their capacity as  
32 an owner, principal officer, partner, board member, employee, or agent of a marijuana processor  
33 facility is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline  
34 by any state or local licensing board, and state prosecution for the following acts:

- 1 (i) Producing, manufacturing, packing, processing, or transporting marijuana products;  
2 (ii) Packing, processing, possessing, or transporting marijuana or marijuana seeds that  
3 were produced by a marijuana cultivation center;  
4 (iii) Possessing, transporting, or producing marijuana paraphernalia;  
5 (iv) Manufacturing, possessing, or producing marijuana products;  
6 (v) Selling, delivering, or transferring marijuana products to a marijuana retailer or  
7 another marijuana processor;  
8 (vi) Purchasing marijuana from a marijuana cultivation facility or another marijuana  
9 processor;  
10 (vii) Delivering or transferring marijuana or marijuana products to a safety compliance  
11 center;  
12 (viii) Controlling any premises or vehicle where marijuana products and marijuana  
13 paraphernalia are possessed, manufactured, sold, or deposited;  
14 (ix) Controlling any premises or vehicle where marijuana is possessed, packaged, or  
15 deposited; and  
16 (x) Any combination of the acts described within subsections (4)(i) through (4)(ix) of this  
17 section, inclusive.  
18 (5) Except as provided in this chapter and chapter 28.10 of title 21, a safety compliance  
19 facility or any person who is twenty-one (21) years of age or older and acting in their capacity as  
20 an owner, principal officer, owner, partner, board member, employee, or agent of a safety  
21 compliance facility shall not be subject to state prosecution; search, except by the department  
22 pursuant to §21-28.10-20; seizure; or penalty in any manner or be denied any right or privilege,  
23 including, but not limited to, civil penalty or disciplinary action by a court or business licensing  
24 board or entity for the following acts:  
25 (i) Acquiring, transporting, storing, or possessing marijuana or marijuana products;  
26 (ii) Returning marijuana and marijuana products to marijuana cultivation facilities,  
27 marijuana processor facilities, and retailers, or, if the quantity is no more than the amounts  
28 allowed under §21-28.9-4, to individuals twenty-one (21) years of age or older;  
29 (iii) Delivering marijuana to other safety compliance facilities;  
30 (iv) Receiving compensation for analytical testing, including for contaminants or  
31 potency; and  
32 (iv) Any combination of the acts described within subsections (4)(i) through (4)(iv) of  
33 this section, inclusive.  
34 (6) The acts listed in subsections (1) through (5) of this section, when undertaken in

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

2 (7) Except as otherwise provided in §21-28.9-7, in a prosecution for selling, transferring,  
3 delivering, giving, or otherwise furnishing marijuana, marijuana products, or marijuana  
4 paraphernalia to any person who is under twenty-one (21) years of age, it is a complete defense if:

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

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

17 (8) The complete defense set forth in §21-28.9-7 of this section does not apply if:

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

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

26 **21-28.9-5. Authorized activities.** -- (a) Any person who is twenty-one (21) years of age  
27 or older is authorized to manufacture, produce, use, obtain, purchase, transport, or possess,  
28 actually or constructively, marijuana paraphernalia.

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

32 **21-28.9-6. Public or unsecured cultivation of marijuana - Penalty.** -- The manufacture  
33 or cultivation of two (2) or fewer marijuana plants by any person who is twenty-one (21) years of  
34 age or older in a location that is contrary to this subsection is a misdemeanor punishable by a fine

1 of up to one thousand dollars (\$1,000), up to ten (10) days in jail, or both.

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

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

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

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

12 **21-28.9-7. Activities not exempt.** -- The provisions of this chapter do not exempt any  
13 person from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state  
14 or local licensing board, and state prosecution for, nor may they establish an affirmative defense  
15 based on this chapter to charges arising from, any of the following acts:

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

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

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

22 (4) Solvent-based production or manufacturing of marijuana product, in violation of §21-  
23 28.9-12

24 **21-28.9-8. Smoking marijuana shall be prohibited in all public places.** -- (a) A person  
25 who smokes marijuana in an indoor public place shall be guilty of a petty misdemeanor, and may  
26 be punished as follows:

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

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

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

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



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, or 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 28.10 of title 21, to be exempt from state penalties for cultivating, preparing, packaging, and  
7 selling marijuana to a retailer or another marijuana cultivation facility, but not for manufacturing  
8 or selling marijuana products or selling marijuana to the general public.

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

11 (5) "Marijuana processor" means an entity registered pursuant to chapter 28.10 of title 21  
12 to be exempt from state penalties for purchasing marijuana from marijuana cultivation facilities,  
13 manufacturing marijuana products, and selling, giving, or transferring marijuana products to a  
14 marijuana retailer or a safety compliance center.

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

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

23 (8) "Safety compliance facility" means an entity that is registered pursuant to chapter  
24 28.10 of title 21, to be exempt from state penalties for testing marijuana for potency and  
25 contaminants.

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

28 **21-28.10-2. Retailer registration.** -- Except as otherwise provided in §21-28.10-6 of this  
29 chapter:

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

34 (2) Each applicant for a retailer registration shall submit application materials required by

1 the department and a nonrefundable fee in an amount determined by the department, not to  
2 exceed five thousand dollars (\$5,000).

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

12 (4) No later than fourteen (14) months after the effective date of this chapter, the  
13 department shall begin accepting applications for retailer registrations, including from applicants  
14 who are not authorized representatives of properly registered compassion centers. By eighteen  
15 (18) months after the effective date of this chapter, the department shall have issued at least forty  
16 (40) retailer registrations, provided a sufficient number of qualified applicants exist. If more  
17 qualifying applicants apply than the department will register, the department shall implement a  
18 competitive scoring process to determine to which applicants to grant registrations. A compassion  
19 center registered under §21-28.6-12 shall be given priority over other applicants in any  
20 competitive application process, unless it has already been granted a retailer license.

21 (5) Two (2) years after the effective date of this chapter, and every twelve (12) months  
22 thereafter, the department shall issue additional retailer registration if the total number of  
23 registrations issued is fewer than forty (40). At no time after two (2) years after the effective date  
24 of this chapter shall there be fewer than forty (40) retailer registrations issued at any given time,  
25 provided a sufficient number of qualified applicants exists.

26 (6) The fee for the initial issuance of a registration as a retailer is ten thousand dollars  
27 (\$10,000).

28 (7) A registration as a retailer may be renewed annually for a ten thousand dollar  
29 (\$10,000) fee. The renewal application may be submitted up to one hundred twenty (120) days  
30 before the expiration of the retailer registration.

31 (8) Nothing in this section shall prohibit an entity registered as a retailer or seeking  
32 retailer registration from also holding a marijuana cultivation facility registration or a marijuana  
33 processor facility registration or seeking registration as a marijuana cultivation facility under §21-  
34 28.10-3 or a marijuana processor facility under §21-28-10.4.

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

4 **21-28.10-3. Marijuana cultivation facility registration.** -- Except as otherwise provided  
5 by §21-28.10-6:

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

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

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

23 (4) No later than twelve (12) months after the effective date of this chapter, the  
24 department shall accept and process applications for no fewer than seven (7) additional marijuana  
25 cultivation facility registrations.

26 (5) No later than twenty (20) months after the effective date of this chapter, and every  
27 twelve (12) months thereafter, the department shall issue additional cultivation facility  
28 registrations if the total number of registrations issued is fewer than ten (10).

29 (6) Any time the department accepts additional applications for marijuana cultivation  
30 registrations, if more qualifying applicants apply than the department will register, the department  
31 shall implement a competitive scoring process to determine to which applicants to grant  
32 registrations. Unless it already has been issued a cultivation facility registration, a compassion  
33 center that cultivates marijuana and is registered under §21-28.6-12 shall be given priority over  
34 other applicants in any competitive application process.

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

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

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

16           (10) Nothing in this section shall prohibit an entity registered as a marijuana cultivation  
17 facility or seeking marijuana cultivation facility registration from also holding a retailer or  
18 processor registration or seeking registration as a retailer under §21-28.10-2 or a processor under  
19 §21-28.10-4.

20           (11) 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 compassion  
22 center registration or seeking registration as a compassion center under §21-28.6-12.

23           **21-28.10-4. Marijuana processor facility registration.** -- Except as otherwise provided  
24 in §21-28.10-6:

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

29           (2) Each applicant for a marijuana processor facility registration shall submit application  
30 materials required by the department and a nonrefundable fee in an amount determined by the  
31 department, not to exceed five thousand dollars (\$5,000).

32           (3) Three (3) months after the effective date of this chapter, authorized representatives of  
33 properly registered compassion centers may submit a statement of intent to operate a marijuana  
34 processor facility. One hundred (100) days after the effective date of this chapter, the department

1 shall issue a marijuana processor facility registration to the authorized representative of a  
2 properly registered compassion center under §21-28.6-12 if the compassion center is in  
3 compliance with all applicable rules and regulations and the authorized representative of the  
4 compassion center submitted a statement to the department notifying it of their intent to operate  
5 as a marijuana processor facility. Any marijuana processor facility registration issued pursuant to  
6 this subsection shall be considered a business registration separate and distinct from the  
7 registration issued under §21-28.6-12.

8 (4) No later than twelve (12) months after the effective date of this chapter, the  
9 department shall begin accepting applications for processor registrations. The department shall  
10 issue processor facility registrations to ten (10) qualified applicants. If more qualifying applicants  
11 apply than the department will register, the department shall implement a competitive scoring  
12 process to determine to which applicants to grant registrations, which may be varied to ensure a  
13 variety of products are available.

14 (5) Two (2) years after the effective date of this chapter, and every twelve (12) months  
15 thereafter, the department shall issue additional processor registrations if the total number of  
16 registrations issued is fewer than ten (10). At no time after two (2) years after the effective date of  
17 this chapter shall there be fewer than ten (10) processor registrations issued at any given time,  
18 provided a sufficient number of qualified applicants exists.

19 (6) The fee for the initial issuance of a registration as a processor is ten thousand dollars  
20 (\$10,000).

21 (7) A registration as a processor may be renewed annually for a ten thousand dollar  
22 (\$10,000) fee. The renewal application may be submitted up to one hundred twenty (120) days  
23 before the expiration of the retailer registration.

24 (8) Nothing in this section shall prohibit an entity registered as a processor or seeking  
25 processor registration from also holding a marijuana cultivation facility registration or a  
26 marijuana retailer facility registration or seeking registration as a marijuana cultivation facility  
27 under §21-28.10-3 or a marijuana retail facility under §21-28.10.2.

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

31 **21-28.10-5. Safety compliance facility registration. --** Except as otherwise provided in  
32 §21-28.10-6:

33 (1) An entity may apply, in accordance with the provisions of this chapter and the  
34 regulations adopted pursuant thereto, for the issuance of a registration exempting the entity from

1 state prosecution and penalties for operating as a safety compliance facility pursuant to the  
2 provisions of this chapter.

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

6 (3) If qualified applicants exist, the department shall grant a two (2) year registration to at  
7 least twenty (20) safety compliance facilities within one year of the effective date of this chapter,  
8 provided that each facility pays a five thousand dollar (\$5,000) fee. If more qualifying applicants  
9 apply than the department will register, the department shall implement a competitive scoring  
10 process to determine to which applicants to grant registrations.

11 (4) If at any time after two (2) years after the effective date of this chapter, there are  
12 fewer than twenty (20) valid safety compliance facility registrations, the department shall accept  
13 and process applications for safety compliance facility registrations.

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

17 **21-28.10-6. Ineligibility for registration.** -- A marijuana establishment may not operate,  
18 and a prospective marijuana establishment may not apply for a registration, if any of the  
19 following are true:

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

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

23 **21-28.10-7. Municipalities.** -- (a) Nothing shall prohibit municipalities from enacting  
24 ordinances or regulations not in conflict with this section or with department rules regulating the  
25 time, place, and manner of marijuana establishments' operations, provided that no local  
26 government may prohibit any type of marijuana establishments' operation altogether, either  
27 expressly or through the enactment of ordinances or regulations which make any type of  
28 marijuana establishments' operation impracticable. Nothing shall prohibit municipalities from  
29 imposing civil and criminal penalties on the violation of ordinances enacted pursuant to this  
30 section.

31 (b) A retailer may not allow on-site consumption of marijuana unless doing so is  
32 specifically allowed by the locality in which it operates.

33 **21-28.10-8. Advertising and product placement.** -- (a) No marijuana establishment or  
34 other person may advertise the sale of marijuana in a manner contrary to the regulations

1 established by the department.

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

5 **21-28.10-9. Retailer safety insert. -- A retailer shall:**

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

9 (i) Methods for administering marijuana;

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

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

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

15 (3) Sell marijuana products in their original processor facility packaging without making  
16 any changes or repackaging.

17 **21-28.10-10. Warning label on marijuana and marijuana products. -- (a) A marijuana**  
18 cultivation facility must create a unique package and label for its marijuana identifying itself as  
19 the producer.

20 (b) A marijuana processor must create a unique package and label for its marijuana  
21 products identifying itself as the producer.

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

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

26 (2) If a safety compliance facility is operational, the potency of the marijuana, as  
27 determined by testing by a safety compliance facility, represented by the percentage of delta-9-  
28 tetrahydrocannabinol by mass in whole plant marijuana or, in the case of marijuana products, the  
29 amount of delta-9-tetrahydrocannabinol in milligrams;

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

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

34 **21-28.10-11. Marijuana cultivation facilities. -- (a) All marijuana cultivated by**

1 marijuana cultivation facilities shall be cultivated only in enclosed, locked facilities registered  
2 with the department. An "enclosed, locked facility" may include a building, room, greenhouse,  
3 fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or  
4 other security devices.

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

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

9 (2) Government employees performing their official duties;

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

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

16 **21-28.10-12. Transportation of marijuana. --** (a) A marijuana establishment or any  
17 person who is acting in their capacity as an owner, employee, or agent of a marijuana  
18 establishment must have documentation when transporting marijuana or marijuana products on  
19 behalf of the marijuana establishment that specifies the amount of marijuana or marijuana  
20 products being transported, the registry identification number of the marijuana establishment, the  
21 date the marijuana or marijuana product is being transported, and, if the marijuana or marijuana  
22 product is being transported to another marijuana establishment, the registry identification  
23 number of the intended marijuana establishment the marijuana is being transported to.

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

28 **21-28.10-13. Minors on the premises of marijuana establishment. --** (a) A marijuana  
29 establishment shall not allow any person who is under twenty-one (21) years of age to be present  
30 inside any room where marijuana or marijuana products are stored, produced, or sold by the  
31 marijuana establishment unless the person who is under twenty-one (21) years of age is:

32 (1) A government employee performing their official duties;

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

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

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

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

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

19 **21-28.10-14. Retailer violations. -- A retailer shall not:**

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

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

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

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

30 (ii) Two (2) immature marijuana plants; and

31 (iii) Marijuana products containing 300 milligrams of delta-9-tetrahydrocannabinol.

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

1 (5) The prohibitions on dispensing marijuana in subsections (2) and (3) of this section do  
2 not apply in instances where the retailer has verified that the person is a qualifying patient or  
3 primary caregiver registered under chapter 28.6 of title 21 and the amount of marijuana dispensed  
4 is within the qualifying patient's limits;

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

7 (7) Purchase marijuana products from any person other than a marijuana processor.

8 (8) Violate regulations issued by the department.

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

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

17 **21-28.10-15. Marijuana cultivation facility violations. --** (a) A marijuana cultivation  
18 facility shall not:

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

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

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

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

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

31 **21-28.10-16. Marijuana processor facility violations. --** (a) A marijuana processor  
32 facility shall not:

33 (1) Manufacture, cultivate, or produce marijuana;

34 (2) Sell, deliver, give away, or otherwise furnish marijuana products to any person other

1 than a marijuana retailer or an agent or staff member acting on behalf of a marijuana retailer:

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

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

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

9 **21-28.10-17. Operation of a marijuana establishment before rule-making. --** Any  
10 marijuana establishment that is registered before the department has completed rule-making must  
11 comply with security regulations issued by the department of health for compassion centers until  
12 the department's rule-making has been finalized.

13 **21-28.10-18. Suspension or termination of registration. --** The department may  
14 suspend or terminate the registration of a marijuana establishment that commits multiple or  
15 serious violations of this chapter, reasonable regulations issued pursuant to it, or any other state or  
16 local law. No later than ninety (90) days after the effective date of this chapter, the department  
17 shall promulgate regulations governing the procedures for suspending, revoking, or terminating  
18 the registration of marijuana establishments. These procedures must ensure due process rights are  
19 adhered to.

20 **21-28.10-19. Excise tax. --** (a) An excise tax is hereby levied upon marijuana cultivation  
21 facilities and must be collected respecting all marijuana sold or transferred to marijuana  
22 processors or retailers.

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

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

31 (d) All other parts of the marijuana plant that are sold or transferred by marijuana  
32 cultivation facilities, including, but not limited to, the dried leaves, shall be taxed at the rate of  
33 either fifteen dollars (\$15.00) per ounce or proportionate part thereof, or at an amount that the  
34 department may set that adjusts the initial fifteen dollar (\$15.00) per ounce rate for inflation or

1 deflation based on the consumer price index.

2 **21-28.10-20. Distribution of funds.** -- The department shall apportion the money  
3 remitted to the department from registration fees and taxes collected pursuant to this chapter in  
4 the following manner:

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

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

9 (3) After retaining sufficient money to defray the entire cost of administration of this  
10 chapter pursuant to subsection (1) of this section and remitting sufficient money to the department  
11 of health pursuant to subsection (2) of this section, the department shall remit the remaining  
12 money to the Rhode Island general fund, thirty percent (30%) of which must be distributed to the  
13 Rhode Island department of health for use in voluntary programs for the prevention or treatment  
14 of the abuse of alcohol, tobacco, or controlled substances, ten percent (10%) of which must be  
15 spent on drug recognition expert training for members of Rhode Island law enforcement, five  
16 percent (5%) to municipalities with cultivation facilities registered in their jurisdictions, with the  
17 amount distributed to an individual municipality determined based on the proportion of excise  
18 taxes levied pursuant to §21-28.10-19 on marijuana cultivated in the municipality, and five  
19 percent (5%) to municipalities with marijuana retailers operating their jurisdiction, with the  
20 amount distributed to an individual municipality determined based on the proportion of special  
21 sales taxes levied pursuant to §44-70-1 on marijuana sold at retail in the municipality.

22 **21-28.10-21. Contracts enforceable.** -- It is the public policy of the state that contracts  
23 related to the operation of a marijuana cultivation facility, marijuana processor facility, retailer,  
24 safety compliance facility, compassion center, or hemp cultivator registered pursuant to Rhode  
25 Island law should be enforceable. It is the public policy of the state that no contract entered into  
26 by a registered marijuana establishment or hemp cultivator or its employees or agents as  
27 permitted pursuant to a valid registration with a department of the state, or by those who allow  
28 property to be used by an establishment, its employees, or its agents as permitted pursuant to a  
29 valid registration, shall be unenforceable on the basis that cultivating, obtaining, manufacturing,  
30 distributing, dispensing, transporting, selling, possessing, or using marijuana or hemp is  
31 prohibited by federal law.

32 **21-28.10-22. Department regulations.** -- (a) The department is responsible for  
33 administering and carrying out the provisions of this chapter.

34 (b) The department may adopt regulations that are necessary and convenient to

1 administer and carry out the provisions of this chapter.

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

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

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

8 (3) Develop a competitive scoring process to determine which applicants to register to  
9 operate each type of marijuana establishment. The scoring system shall take into account the  
10 applicant and managing officers' applicable experience, training, and expertise; the applicant's  
11 plan for security and diversion prevention; any criminal, civil, or regulatory issues encountered  
12 by other entities the applicant and managing officers have controlled or managed; and the  
13 suitability of the proposed location. The department shall award additional points to applicants  
14 that provide certification from the Rhode Island minority business enterprise compliance office  
15 demonstrating the applicant's status as a minority business enterprise as defined in §37-14.1-3.  
16 The competitive scoring process for retailers may be varied to account for geographic  
17 distribution, population density, or both;

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

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

23 (6) Specify requirements for the packaging and labeling of marijuana, including  
24 requiring:

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

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

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

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

34 (7) Specify the requirements for the production and sale of marijuana-infused products

- 1 which shall include, at a minimum:
- 2 (i) Defining the amount of delta-9-tetrahydrocannabinol that constitutes a single serving;
- 3 (ii) Limiting each package of edible marijuana-infused products to containing no more
- 4 than ten (10) single servings, each of which must be contained in child-resistant packaging; and
- 5 (iii) Requiring that marijuana-infused products be clearly identifiable, when practicable,
- 6 with a standard symbol indicating that it contains marijuana;
- 7 (8) Specify the requirements for the safety insert to be included with marijuana by
- 8 retailers, including those in §21-28.10-8, if the department chooses to do so;
- 9 (9) Establish reasonable security requirements for marijuana establishments, which may
- 10 not conflict with security requirements for compassion centers;
- 11 (10) Require the posting or display of marijuana establishments' registrations;
- 12 (11) Establish restrictions on advertising for the sale of marijuana. The restrictions shall:
- 13 (i) Be in compliance with the United States Constitution and the Rhode Island
- 14 Constitution;
- 15 (ii) Include a prohibition on advertising reasonably considered aimed at minors; and
- 16 (iii) Be at least as restrictive as limitations on advertising tobacco products, provided that
- 17 the regulations may not prevent appropriate signs on the property of the marijuana establishment,
- 18 listings in business directories including phone books, listings in publications focused on
- 19 marijuana, or the sponsorship of health or not-for-profit charity or advocacy events;
- 20 (12) Establish procedures for inspecting and auditing the records or premises of a
- 21 marijuana establishment, including, but not limited to, procedures for the department of health to
- 22 conduct inspections of a marijuana establishment that produces edible or potable marijuana-
- 23 infused products;
- 24 (13) Set a schedule of civil fines for violations of this chapter and regulations issued
- 25 pursuant to the chapter;
- 26 (14) Set forth the procedures for hearings on civil fines and suspensions and revocation of
- 27 a registration as a retailer, marijuana cultivation facility, marijuana processor facility, or safety
- 28 compliance facility for a violation of any provision of this chapter or the regulations adopted
- 29 pursuant to this chapter;
- 30 (15) Establish reasonable environmental controls to ensure that any registered marijuana
- 31 establishment minimizes any harm to the environment adjoining and nearby landowners, and
- 32 persons passing by. This may include prohibiting pesticides that are harmful to human health, but
- 33 may not include a prohibition on the use of all pesticides;
- 34 (16) Prohibit or regulate additives to marijuana and marijuana-infused products,

1 including, but not limited to, those that are toxic, designed to make the product more addictive, or  
2 designed to make the product more appealing to children or misleading to consumers; the  
3 prohibition may not extend to common baking and cooking items;

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

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

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

13 (20) Establish rules for the secure transportation of marijuana.

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

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

17 (f) The department shall not require:

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

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

22 **21-28.10-23. Failure of department to adopt regulations.** -- (a) The department shall  
23 adopt regulations to implement this chapter. Within ninety (90) days of the effective date of this  
24 chapter, the department shall begin accepting applications for marijuana establishments from  
25 persons or entities who hold a current compassion center registration under §21-28.6-12.

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

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

34 SECTION 3. Title 44 of the General Laws entitled "TAXATION" is hereby amended by

1 adding thereto the following chapter:

2 CHAPTER 70

3 SPECIAL SALES TAX ON RETAIL MARIJUANA

4 **44-70-1. Imposition of special sales tax on retail marijuana. --** (a) Except as provided  
5 for in subsection (b) of this section, a sales tax at a rate of ten percent (10%) shall be imposed on  
6 all retail sales of marijuana in accordance with the laws of, and regulations enacted through the  
7 authority of, title 21.

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

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

13 **44-18-7. Sales defined. --** "Sales" means and includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           **12-1.3-2. Motion for expungement.** -- (a) Any person who is a first offender may file a  
2 motion for the expungement of all records and records of conviction for a felony or misdemeanor  
3 by filing a motion in the court in which the conviction took place; provided, that no person who  
4 has been convicted of a crime of violence shall have his or her records and records of conviction  
5 expunged; and provided, that all outstanding court-imposed or court-related fees, fines, costs,  
6 assessments, charges, and/or any other monetary obligations have been paid, unless such amounts  
7 are reduced or waived by order of the court.

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

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

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

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

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

26           (1) That in the five (5) years preceding the filing of the motion, if the conviction was for  
27 a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was  
28 for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor;  
29 there are no criminal proceedings pending against the person; that the person does not owe any  
30 outstanding court-imposed or court-related fees, fines, costs, assessments, or charges, unless such  
31 amounts are reduced or waived by order of the court, and he or she has exhibited good moral  
32 character;

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

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

8 (d) The defendant shall be advised at the hearing that any and all bail money relating to a  
9 case that remains on deposit and is not claimed at the time of expungement shall be escheated to  
10 the state's general treasury in accordance with chapter 12 of title 8.

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

19 SECTION 6. Sections 21-28-4.01, 21-28-4.01.1 and 21-28-4.01.2 of the General Laws in  
20 Chapter 21-28 entitled "Uniform Controlled Substances Act" are hereby amended to read as  
21 follows:

22 **21-28-4.01. Prohibited acts A -- Penalties.** -- (a) (1) Except as authorized by this  
23 chapter, or exempted from annual penalties pursuant to chapters 28.9 or 28.10 of title 21 it shall  
24 be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or  
25 deliver a controlled substance.

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

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

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

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

9 (ii) The manufacture of two (2) or more mature, flowering marijuana plants or three (3)  
10 or more total marijuana plants, is guilty of a crime and upon conviction may be imprisoned for  
11 not more than three (3) years or fined not more than five thousand dollars (\$5,000), or both;

12 (iii) The delivery of marijuana is guilty of a crime and upon conviction may be  
13 imprisoned for not more than five (5) years or fined not more than one hundred thousand dollars  
14 (\$100,000), or both.

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

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

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

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

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

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

34 (iii) A counterfeit substance, classified in schedule V, is guilty of a crime and upon

1 conviction may be imprisoned for not more than one year, or fined not more than ten thousand  
2 dollars (\$10,000), or both.

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

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

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

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

17 (iii) Notwithstanding any public, special, or general law to the contrary, the possession  
18 of one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older  
19 [but who is less than twenty-one \(21\) years of age](#) and who is not exempted from penalties  
20 pursuant to chapter 28.6 of this title shall constitute a civil offense, rendering the offender liable  
21 to a civil penalty in the amount of one hundred fifty dollars (\$150) and forfeiture of the  
22 marijuana, but not to any other form of criminal or civil punishment or disqualification.  
23 Notwithstanding any public, special, or general law to the contrary, this civil penalty of one  
24 hundred fifty dollars (\$150) and forfeiture of the marijuana shall apply if the offense is the first  
25 (1st) or second (2nd) violation within the previous eighteen (18) months.

26 (iv) Notwithstanding any public, special, or general law to the contrary, possession of  
27 one ounce (1 oz.) or less of marijuana by a person who is under the age of eighteen (18) years and  
28 who is not exempted from penalties pursuant to chapter 28.6 of this title shall constitute a civil  
29 offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars  
30 (\$150) and forfeiture of the marijuana; provided the minor offender completes an approved, drug-  
31 awareness program and community service as determined by the court. If the person under the  
32 age of eighteen (18) years fails to complete an approved, drug-awareness program and  
33 community service within one year of the disposition, the penalty shall be a three hundred dollar  
34 (\$300) civil fine and forfeiture of the marijuana, except that if no drug-awareness program or

1 community service is available, the penalty shall be a fine of one hundred fifty dollars (\$150) and  
2 forfeiture of the marijuana. The parents or legal guardian of any offender under the age of  
3 eighteen (18) shall be notified of the offense and the availability of a drug-awareness and  
4 community-service program. The drug-awareness program must be approved by the court, but  
5 shall, at a minimum, provide four (4) hours of instruction or group discussion and ten (10) hours  
6 of community service. Notwithstanding any other public, special, or general law to the contrary,  
7 this civil penalty shall apply if the offense is the first or second violation within the previous  
8 eighteen (18) months.

9 (v) Notwithstanding any public, special, or general law to the contrary, a person who is  
10 less than twenty-one (21) years of age and who is not exempted from penalties pursuant to  
11 chapter 28.6 of this title found in possession of one ounce (1 oz.) or less of marijuana is guilty of  
12 a misdemeanor and upon conviction may be imprisoned for not more than thirty (30) days, or  
13 fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or both,  
14 if that person has been previously adjudicated on a violation for possession of less than one ounce  
15 (1 oz.) of marijuana under (c)(2)(iii) or (c)(2)(iv) of this subsection two (2) times in the eighteen  
16 (18) months prior to the third (3rd) offense.

17 (vi) Any unpaid civil fine issued under (c)(2)(iii) or (c)(2)(iv) of this subsection shall  
18 double to three hundred dollars (\$300) if not paid within thirty (30) days of the disposition. The  
19 civil fine shall double again to six hundred dollars (\$600) if it has not been paid within ninety  
20 (90) days.

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

30 (viii) No violation of (c)(2)(iii) or (c)(2)(iv) of this subsection shall be considered a  
31 violation of parole or probation.

32 (ix) Any records collected by any state agency or tribunal that include personally  
33 identifiable information about violations of (c)(2)(iii) or (c)(2)(iv) of this subsection shall not be  
34 open to public inspection in accordance with § 8-8.2-21.

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

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

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

12           (ii) Attend and complete a drug counseling and education program as prescribed by the  
13 director of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals  
14 and pay the sum of four hundred dollars (\$400) to help defray the costs of this program which  
15 shall be deposited as general revenues. Failure to attend may result, after hearing by the court, in  
16 jail sentence up to one year;

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

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

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

26           (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent  
27 to manufacture or distribute, an imitation controlled substance. Any person who violates this  
28 subsection is guilty of a crime and upon conviction shall be subject to the same term of  
29 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the  
30 controlled substance that the particular imitation controlled substance forming the basis of the  
31 prosecution was designed to resemble and/or represented to be; but in no case shall the  
32 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars  
33 (\$20,000).

34           (e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an

1 anabolic steroid or human growth hormone for: (1) Enhancing performance in an exercise, sport,  
2 or game, or (2) Hormonal manipulation intended to increase muscle mass, strength, or weight  
3 without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor  
4 and upon conviction may be imprisoned for not more than six (6) months or a fine of not more  
5 than one thousand dollars (\$1,000), or both.

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

16 **21-28-4.01.1. Minimum sentence -- Certain quantities of controlled substances. --** (a)  
17 Except as authorized by this chapter, it shall be unlawful for any person to manufacture, sell, or  
18 possess with intent to manufacture, or sell, a controlled substance classified in schedules I or II  
19 (excluding marijuana) or to possess or deliver the following enumerated quantities of certain  
20 controlled substances:

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

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

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

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

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

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

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

34 (4) One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD)

1 or one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a  
2 detectable amount of lysergic acid diethylamide (LSD);

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

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

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

10 **21-28-4.01.2. Minimum sentence -- Certain quantities of controlled substances. --** (a)

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

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

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

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

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

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

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

23 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand  
24 (1,000) tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

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

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

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

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

34 SECTION 7. 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 they are a passenger in a motor vehicle that is  
5 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 their driver's license suspended for up to six (6) months, or both, for the  
8 first violation, and for each subsequent violation may be fined not more than five hundred dollars  
9 (\$500) or have their 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 8. 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.** -- (a) Whoever drives or  
14 otherwise operates any vehicle in the state while under the influence of any intoxicating liquor,  
15 drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any  
16 combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3)  
17 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 9. 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 10. 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 11. 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 12. Title 2 of the General Laws entitled "AGRICULTURE AND  
33 FORESTRY" is hereby amended by adding thereto the following chapter:

34 CHAPTER 26



1 [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 13. This act shall take effect upon passage.

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LC004368  
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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 would establish a system of regulated marijuana retail distribution  
3 to 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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