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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

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

Introduced By: Senators Euer, Miller, Lawson, and Goldin

Date Introduced: March 14, 2019

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

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

4 **21-28.6-4. Protections for the medical use of marijuana.**

5 (a) A qualifying patient cardholder who has in his or her possession a registry
6 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied
7 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
8 business or occupational or professional licensing board or bureau, for the medical use of
9 marijuana; provided, that the qualifying patient cardholder possesses an amount of marijuana that
10 does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical
11 marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and
12 an amount of wet marijuana to be set by regulations promulgated by the departments of health
13 and business regulation. Said plants shall be stored in an indoor facility.

14 (b) An authorized purchaser who has in his or her possession a registry identification card
15 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
16 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
17 occupational or professional licensing board or bureau, for the possession of marijuana; provided
18 that the authorized purchaser possesses an amount of marijuana that does not exceed two and

1 one-half (2.5) ounces of usable marijuana, or its equivalent amount, and this marijuana was
2 purchased legally from a compassion center for the use of their designated qualifying patient.

3 (c) A qualifying patient cardholder, who has in his or her possession a registry
4 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
5 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
6 business or occupational or professional licensing board or bureau, for selling, giving, or
7 distributing, on or before December 31, 2016, to a compassion center cardholder, marijuana of
8 the type, and in an amount not to exceed, that set forth in subsection (a), that he or she has
9 cultivated or manufactured pursuant to this chapter.

10 (d) No school, ~~employer,~~ or landlord may refuse to enroll, ~~employ,~~ or lease to, or
11 otherwise penalize, a person ~~solely for~~ because of his or her status as a cardholder; ~~Provided~~
12 provided, however, due to the safety and welfare concern for other tenants, the property, and the
13 public, as a whole, a landlord may have the discretion not to lease, or continue to lease, to a
14 cardholder who cultivates marijuana in the leased premises.

15 (e) Except to the extent required by federal law or for the receipt of federal funds, it shall
16 be unlawful for any employer to refuse to hire, discharge, or otherwise discriminate against a
17 person with respect to any terms, conditions, or privileges of employment, or any other matter
18 directly or indirectly related to employment because of his or her status as a cardholder, including
19 because of a positive drug test for marijuana on the premises of the place of employment or
20 during the hours of employment.

21 ~~(f)~~(f) A primary caregiver cardholder, who has in his or her possession a registry
22 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
23 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
24 business or occupational or professional licensing board or bureau, for assisting a patient
25 cardholder, to whom he or she is connected through the department of health's registration
26 process, with the medical use of marijuana; provided, that the primary caregiver cardholder
27 possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that
28 are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable
29 marijuana, or its equivalent amount, and an amount of wet marijuana set in regulations
30 promulgated by the departments of health and business regulation for each qualified patient
31 cardholder to whom he or she is connected through the department of health's registration
32 process.

33 ~~(g)~~(g) A qualifying patient cardholder shall be allowed to possess a reasonable amount of
34 unusable marijuana, including up to twelve (12) seedlings that are accompanied by valid medical

1 marijuana tags. A primary caregiver cardholder shall be allowed to possess a reasonable amount
2 of unusable marijuana, including up to twenty-four (24) seedlings that are accompanied by valid
3 medical marijuana tags and an amount of wet marijuana set in regulations promulgated by the
4 departments of health and business regulation.

5 ~~(e)~~(h) There shall exist a presumption that a cardholder is engaged in the medical use of
6 marijuana if the cardholder:

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

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

12 ~~(h)~~(i) A primary caregiver cardholder may receive reimbursement for costs associated
13 with assisting a qualifying patient cardholder's medical use of marijuana. Compensation shall not
14 constitute sale of controlled substances.

15 ~~(i)~~(j) A primary caregiver cardholder, who has in his or her possession a registry
16 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
17 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
18 business or occupational or professional licensing board or bureau, for selling, giving, or
19 distributing, on or before December 31, 2016, to a compassion center cardholder, marijuana, of
20 the type, and in an amount not to exceed that set forth in subsection ~~(e)~~(f), if:

21 (1) The primary caregiver cardholder cultivated the marijuana pursuant to this chapter,
22 not to exceed the limits of subsection ~~(e)~~(f); and

23 (2) Each qualifying patient cardholder the primary caregiver cardholder is connected with
24 through the department of health's registration process has been provided an adequate amount of
25 the marijuana to meet his or her medical needs, not to exceed the limits of subsection (a).

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

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

34 ~~(l)~~(m) No person shall be subject to arrest or prosecution for constructive possession,

1 conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the
2 presence or vicinity of the medical use of marijuana as permitted under this chapter, or for
3 assisting a qualifying patient cardholder with using or administering marijuana.

4 ~~(m)~~(n) A practitioner, licensed with authority to prescribe drugs pursuant to chapters 34,
5 37, and 54 of title 5, or pharmacist, licensed under chapter 19.1 of title 5, shall not be subject to
6 arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not
7 limited to, civil penalty or disciplinary action by a business or occupational or professional
8 licensing board or bureau solely for discussing the benefits or health risks of medical marijuana
9 or its interaction with other substances with a patient.

10 ~~(l)~~(o) A qualifying patient or primary caregiver registry identification card, or its
11 equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia, to
12 permit the medical use of marijuana by a patient with a debilitating medical condition, or to
13 permit a person to assist with the medical use of marijuana by a patient with a debilitating
14 medical condition, shall have the same force and effect as a registry identification card.

15 ~~(k)~~(p) Notwithstanding the provisions of subsection ~~(e)~~(f), no primary caregiver
16 cardholder shall possess an amount of marijuana in excess of twenty-four (24) mature marijuana
17 plants that are accompanied by valid medical marijuana tags and five (5) ounces of usable
18 marijuana, or its equivalent, and an amount of wet marijuana set in regulations promulgated by
19 the departments of health and business regulation for patient cardholders to whom he or she is
20 connected through the department of health's registration process.

21 ~~(j)~~(q) A qualifying patient or primary caregiver cardholder may give marijuana to
22 another qualifying patient or primary caregiver cardholder to whom they are not connected by the
23 department's registration process, provided that no consideration is paid for the marijuana, and
24 that the recipient does not exceed the limits specified in this section.

25 ~~(i)~~(r) Qualifying patient cardholders and primary caregiver cardholders electing to grow
26 marijuana shall only grow at one premises, and this premises shall be registered with the
27 department of health. Except for compassion centers, cooperative cultivations, and licensed
28 cultivators, no more than twenty-four (24) mature marijuana plants that are accompanied by valid
29 medical marijuana tags shall be grown or otherwise located at any one dwelling unit or
30 commercial unit. The number of qualifying patients or primary caregivers residing, owning,
31 renting, growing, or otherwise operating at a dwelling or commercial unit does not affect this
32 limit. The department of health shall promulgate regulations to enforce this provision.

33 ~~(h)~~(s) For the purposes of medical care, including organ transplants, a patient cardholder's
34 authorized use of marijuana shall be considered the equivalent of the authorized use of any other

1 medication used at the direction of a physician, and shall not constitute the use of an illicit
2 substance.

3 ~~(t)~~(t) Notwithstanding any other provisions of the general laws, the manufacture of
4 marijuana using a solvent extraction process that includes the use of a compressed, flammable gas
5 as a solvent by a patient cardholder or primary caregiver cardholder shall not be subject to the
6 protections of this chapter.

7 ~~(u)~~(u) Notwithstanding any provisions to the contrary, nothing in this chapter or the
8 general laws shall restrict or otherwise affect the manufacturing, distribution, transportation, sale,
9 prescribing and dispensing of a product that has been approved for marketing as a prescription
10 medication by the U.S. Food and Drug Administration and legally prescribed, nor shall hemp, as
11 defined in § 2-26-3, be defined as marijuana or marihuana pursuant to this chapter, chapter 28 of
12 this title or elsewhere in the general laws.

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

16 **21-28.6-18. Civil liability.**

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

23 **21-28.6-19. Medical marijuana - State preemption.**

24 The regulation of medical marijuana and compassion centers shall rest solely with the
25 state, except as otherwise specifically provided in this chapter.

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

28 **28-6.5-2. Testing of prospective employees.**

29 (a) Except as provided in subsections (b) and (c) of this section, an employer may require
30 a job applicant to submit to testing of his or her blood, urine or any other bodily fluid or tissue if:

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

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

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

4 (b) The pre-employment drug testing authorized by this section shall not extend to job
5 applicants for positions with any agency or political subdivision of the state or municipalities,
6 except for applicants seeking employment as a law enforcement or correctional officer,
7 firefighter, or any other position where that testing is required by federal law or required for the
8 continued receipt of federal funds.

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

11 (d) [Any testing authorized by this chapter shall be subject to the provisions of § 21-28.6-](#)
12 [4\(f\).](#)

13 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

1 This act would prohibit employers from firing, discharging, or otherwise discriminating
2 against medical marijuana cardholders who test positive. This act would also allow medical
3 marijuana cardholders subjected to discrimination to seek civil remedies in court. It would also
4 allow for the regulation of medical marijuana and compassion centers to rest solely with the state.

5 This act would take effect upon passage.

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