

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

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

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

Date Introduced: February 04, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

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

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, solely for the medical use of
9 medical marijuana; provided that the qualifying patient cardholder possesses an amount of
10 medical marijuana that does not exceed twelve (12) mature marijuana plants and twelve (12)
11 immature marijuana plants that are accompanied by valid medical marijuana plant tags, two and
12 one-half ounces (2.5 oz.) of dried medical marijuana, or its equivalent amount which satisfies the
13 requirements of this chapter, and an amount of wet medical marijuana to be set by regulations
14 promulgated by the department of business regulation. The plants shall be stored in an indoor
15 facility. Marijuana plants and the marijuana they produce shall only be grown, stored,
16 manufactured, and processed in accordance with regulations promulgated by the department of
17 business regulation;

18 (b) An authorized purchaser who has in his or her possession a registry identification card

1 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
2 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
3 occupational or professional licensing board or bureau, for the possession of medical marijuana;
4 provided that the authorized purchaser possesses an amount of medical marijuana that does not
5 exceed two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and this
6 medical marijuana was purchased legally from a compassion center for the use of their designated
7 qualifying patient.

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

15 (d) No school or landlord may refuse to enroll, or lease to, or otherwise penalize, a person
16 ~~solely for~~ because of his or her status as a cardholder or lawful user of medical marijuana under
17 this chapter. Provided, however, due to the safety and welfare concern for other tenants, the
18 property, and the public, as a whole, a landlord may have the discretion not to lease, or continue
19 to lease, to a cardholder who cultivates, manufactures, processes, smokes, or vaporizes medical
20 marijuana in the leased premises.

21 (e) No employer may refuse to employ, or otherwise penalize, a person ~~solely for~~ because
22 of his or her status as a cardholder or lawful user of medical marijuana under this chapter, except:

23 (1) To the extent employer action is taken with respect to such person's:

24 (i) Use or possession of marijuana or being under the influence of marijuana in any
25 workplace;

26 (ii) Undertaking a task under the influence of marijuana when doing so would constitute
27 negligence or professional malpractice or jeopardize workplace safety;

28 (iii) Operation, navigation, or actual physical control of any motor vehicle or other
29 transport vehicle, aircraft, motorboat, machinery or equipment, or firearms while under the
30 influence of marijuana; or

31 (iv) Violation of employment conditions pursuant to the terms of a collective bargaining
32 agreement; or

33 (2) Where the employer is a federal contractor or otherwise subject to federal law such
34 that failure of the employer to take such action against the employee would cause the employer to

1 lose a monetary or licensing related benefit.

2 (f) For purposes of subsections (d) and (e) of this section, a cardholder's positive drug test
3 for marijuana components or metabolites shall not by itself constitute evidence that the person is
4 under the influence of marijuana.

5 ~~(g)~~ A primary caregiver 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 assisting a patient
9 cardholder, to whom he or she is connected through the department of health or department of
10 business regulation's registration process, with the medical use of medical marijuana; provided,
11 that the primary caregiver cardholder possesses an amount of marijuana that does not exceed
12 twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two
13 and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet
14 marijuana set in regulations promulgated by the departments of health and business regulation for
15 each qualified patient cardholder to whom he or she is connected through the department of
16 health's registration process.

17 ~~(h)~~ A qualifying patient cardholder shall be allowed to possess a reasonable amount of
18 unusable marijuana, including up to twelve (12) immature marijuana plants that are accompanied
19 by valid medical marijuana tags. A primary caregiver cardholder shall be allowed to possess a
20 reasonable amount of unusable marijuana, including up to twenty-four (24) immature marijuana
21 plants that are accompanied by valid medical marijuana tags and an amount of wet marijuana set
22 in regulations promulgated by the departments of health and business regulation.

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

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

30 ~~(j)~~ A primary caregiver cardholder may receive reimbursement for costs associated
31 with assisting a qualifying patient cardholder's medical use of marijuana. A primary caregiver
32 cardholder may only receive reimbursement for the actual costs of goods, materials, services or
33 utilities for which they have incurred expenses. A primary caregiver may not receive
34 reimbursement or compensation for his or her time, knowledge, or expertise. Compensation shall

1 not constitute sale of controlled substances under state law. The department of business regulation
2 may promulgate regulations for the documentation and tracking of reimbursements and the
3 transfer of medical marijuana between primary caregivers and their registered patients.

4 ~~(k)~~ A primary caregiver cardholder, who has in his or her possession a registry
5 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
6 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
7 business or occupational or professional licensing board or bureau, for selling, giving, or
8 distributing, on or before December 31, 2016, to a compassion center cardholder, marijuana, of
9 the type, and in an amount not to exceed that set forth in subsection ~~(g)~~ (g) of this section, if:

10 (1) The primary caregiver cardholder cultivated the marijuana pursuant to this chapter,
11 not to exceed the limits of subsection ~~(g)~~ (g) of this section; and

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

15 ~~(l)~~ A practitioner shall not be subject to arrest, prosecution, or penalty in any manner,
16 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action
17 by the Rhode Island board of medical licensure and discipline, or an employer or occupational or
18 professional licensing board or bureau solely for providing written certifications in accordance
19 with this chapter and regulations promulgated by the department of health, or for otherwise
20 stating that, in the practitioner's professional opinion, the potential benefits of the medical
21 marijuana would likely outweigh the health risks for a patient.

22 ~~(m)~~ Any interest in, or right to, property that is possessed, owned, or used in
23 connection with the lawful medical use of marijuana, or acts incidental to such use, shall not be
24 forfeited.

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

29 ~~(o)~~ A practitioner, licensed with authority to prescribe drugs pursuant to chapters 34,
30 37, and 54 of title 5, or pharmacist, licensed under chapter 19.1 of title 5, or certified school nurse
31 teacher, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right
32 or privilege, including, but not limited to, civil penalty or disciplinary action by an employer or
33 occupational or professional licensing board or bureau solely for: (1) Discussing the benefits or
34 health risks of medical marijuana or its interaction with other substances with a patient; or

1 (2) Administering a non-smokable and non-vaporized form of medical marijuana in a
2 school setting to a qualified patient registered in accordance with this chapter.

3 ~~(p)~~ A qualifying patient or primary caregiver registry identification card, or its
4 equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia, to
5 permit the medical use of marijuana by a patient with a debilitating medical condition, or to
6 permit a person to assist with the medical use of marijuana by a patient with a debilitating
7 medical condition, shall have the same force and effect as a registry identification card.

8 ~~(q)~~ Notwithstanding the provisions of subsection ~~(g)~~ of this section, no primary
9 caregiver cardholder shall possess an amount of marijuana in excess of twenty-four (24) mature
10 marijuana plants that are accompanied by valid medical marijuana tags and five (5) ounces of
11 usable marijuana, or its equivalent, and an amount of wet medical marijuana set in regulations
12 promulgated by the departments of health and business regulation for patient cardholders to
13 whom he or she is connected through the department of health and/or department of business
14 regulation registration process.

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

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

28 ~~(t)~~ For the purposes of medical care, including organ transplants, a patient cardholder's
29 authorized use of marijuana shall be considered the equivalent of the authorized use of any other
30 medication used at the direction of a physician, and shall not constitute the use of an illicit
31 substance.

32 ~~(u)~~ Notwithstanding any other provisions of the general laws, the manufacture of
33 marijuana using a solvent extraction process that includes the use of a compressed, flammable gas
34 as a solvent by a patient cardholder or primary caregiver cardholder shall not be subject to the

1 protections of this chapter.

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

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

11 **21-28.6-19. Civil liability.**

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

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

20 **28-6.5-2. Testing of prospective employees.**

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

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

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

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

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

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

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

4 [4.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

1 This act would expand the criminal and civil protections to lawful users of medical
2 marijuana. This act would also provide for civil damages to be imposed upon violators of these
3 protections.

4 This act would take effect upon passage.

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