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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

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

Introduced By: Representative Scott Slater

Date Introduced: January 13, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

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

5 (a) A qualifying patient cardholder who has in his or her possession a registry identification
6 card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
7 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
8 occupational or professional licensing board or bureau, solely for the medical use of medical
9 marijuana; provided that the qualifying patient cardholder possesses an amount of medical
10 marijuana that does not exceed twelve (12) mature marijuana plants and twelve (12) immature
11 marijuana plants that are accompanied by valid medical marijuana plant tags, two and one-half
12 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 privilege,
2 including, but not limited to, civil penalty or disciplinary action by a business or occupational or
3 professional licensing board or bureau, for the possession of medical marijuana; provided that the
4 authorized purchaser possesses an amount of medical marijuana that does not exceed two and one-
5 half (2.5) ounces of usable marijuana, or its equivalent amount, and this medical marijuana was
6 purchased legally from a compassion center for the use of their designated qualifying patient.

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

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

20 ~~(d)~~(e) No school or landlord may refuse to enroll, or lease to, or otherwise penalize, a
21 person ~~solely for his or her~~ because of their status as a cardholder. Provided, however, due to the
22 safety and welfare concern for other tenants, the property, and the public, as a whole, a landlord
23 may have the discretion not to lease, or continue to lease, to a cardholder who cultivates,
24 manufactures, processes, smokes, or vaporizes medical marijuana in the leased premises.

25 ~~(e)~~(f) No employer may refuse to employ, or otherwise penalize, a person solely for his or
26 her status as a cardholder, except:

- 27 (1) To the extent employer action is taken with respect to such person's:
- 28 (i) Use or possession of marijuana or being under the influence of marijuana in any
29 workplace;
- 30 (ii) Undertaking a task under the influence of marijuana when doing so would constitute
31 negligence or professional malpractice or jeopardize workplace safety;
- 32 (iii) Operation, navigation, or actual physical control of any motor vehicle or other
33 transport vehicle, aircraft, motorboat, machinery or equipment, or firearms while under the
34 influence of marijuana; or

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

3 (2) Where the employer is a federal contractor or otherwise subject to federal law such that
4 failure of the employer to take such action against the employee would cause the employer to lose
5 a monetary or licensing related benefit.

6 ~~(g)~~(g) A primary caregiver cardholder, who has in his or her possession a registry
7 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
8 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business
9 or occupational or professional licensing board or bureau, for assisting a patient cardholder, to
10 whom he or she is connected through the department of health or department of business
11 regulation's registration process, with the medical use of medical marijuana; provided, that the
12 primary caregiver cardholder possesses an amount of marijuana that does not exceed twelve (12)
13 mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half
14 (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana set in
15 regulations promulgated by the departments of health and business regulation for each qualified
16 patient cardholder to whom he or she is connected through the department of health's registration
17 process.

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

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

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

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

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

1 reimbursement or compensation for his or her time, knowledge, or expertise. Compensation shall
2 not constitute sale of controlled substances under state law. The department of business regulation
3 may promulgate regulations for the documentation and tracking of reimbursements and the transfer
4 of medical marijuana between primary caregivers and their registered patients.

5 ~~(j)~~(k) 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 business
8 or occupational or professional licensing board or bureau, for selling, giving, or distributing, on or
9 before December 31, 2016, to a compassion center cardholder, marijuana, of the type, and in an
10 amount not to exceed that set forth in subsection (f), if:

11 (1) The primary caregiver cardholder cultivated the marijuana pursuant to this chapter, not
12 to exceed the limits of subsection (f); and

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

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

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

25 ~~(m)~~(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 assisting
28 a qualifying patient cardholder with using or administering marijuana.

29 ~~(n)~~(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 or
32 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 permit
6 a person to assist with the medical use of marijuana by a patient with a debilitating medical
7 condition, shall have the same force and effect as a registry identification card.

8 ~~(q)~~ Notwithstanding the provisions of subsection (f), no primary caregiver cardholder
9 shall possess an amount of marijuana in excess of twenty-four (24) mature marijuana plants that
10 are accompanied by valid medical marijuana tags and five (5) ounces of usable marijuana, or its
11 equivalent, and an amount of wet medical marijuana set in regulations promulgated by the
12 departments of health and business regulation for patient cardholders to whom he or she is
13 connected through the department of health and/or department of business regulation registration
14 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 that
18 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 department
21 of business regulation. Except for licensed compassion centers, and licensed cooperative
22 cultivations, and licensed cultivators, no more than twenty-four (24) mature marijuana plants that
23 are accompanied by valid medical marijuana tags shall be grown or otherwise located at any one
24 dwelling unit or commercial unit. The number of qualifying patients or primary caregivers residing,
25 owning, renting, growing, or otherwise operating at a dwelling or commercial unit does not affect
26 this limit. The department of business regulation shall promulgate regulations to enforce this
27 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) Notwithstanding any provisions to the contrary, nothing in this chapter or the general
3 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 chapter,
7 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 sections:

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

12 A person whose rights under § 21-18.6-4 have been violated may commence a civil action
13 for injunctive relief and other appropriate equitable relief, and for the award of compensatory and
14 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 the costs of the litigation and reasonable attorneys' fees in an
17 amount to be fixed by the court.

18 **21-28.6-20. Medical marijuana -- State preemption.**

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

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

23 **28-6.5-2. Testing of prospective employees.**

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

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

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

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

33 (b) The pre-employment drug testing authorized by this section shall not extend to job
34 applicants for positions with any agency or political subdivision of the state or municipalities,

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

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

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

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

6 This act would take effect upon passage.

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