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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representatives Mattiello, and Watson

Date Introduced: March 10, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-16-12 of the General Laws in Chapter 16-16 entitled "Teachers'
2 Retirement" is hereby amended to read as follows:

3 **16-16-12. Procedure for service retirement.** -- ~~(a)~~ Retirement of a member on a service
4 retirement allowance shall be made by the retirement board as follows:

5 ~~(a)~~(a)(i) Any member may retire upon his or her written application to the retirement
6 board as of the first day of the calendar month in which the application was filed, provided the
7 member was separated from service prior to filing the application, and further provided however,
8 that if separation from service occurs during the month in which the application is filed, the
9 effective date shall be the first day following the separation from service, and provided further
10 that the member on retirement date has attained the age of sixty (60) years and has completed at
11 least ten (10) years of contributory service on or before July 1, 2005, or regardless of age has
12 completed twenty-eight (28) years of total service and has completed at least ten (10) years of
13 contributory service on or before July 1, 2005, and who retire before October 1, 2009 or are
14 eligible to retire as of September 30, 2009.

15 (ii) For teachers who become eligible to retire on or after October 1, 2009, benefits are
16 available to teachers who have attained the age of sixty-two (62) and completed at least ten (10)
17 years of contributory service. For teachers in service as of October 1, 2009 who were not eligible
18 to retire as of September 30, 2009, the minimum retirement age of sixty-two (62) will be adjusted
19 downward in proportion to the amount of service the member has earned as of September 30,

1 2009. The proportional formula shall work as follows:

2 ~~(2)~~(A) The formula shall determine the first age of retirement eligibility under the laws
3 in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age
4 of sixty-two (62).

5 ~~(2)~~(B) The formula shall then take the teacher's total service credit as of September 30,
6 2009 as the numerator and the years of service credit determined under ~~(2)~~(A) as the
7 denominator.

8 ~~(3)~~(C) The fraction determined in ~~(2)~~(B) shall then be multiplied by the age difference in
9 ~~(1)~~(A) to apply a reduction in years from age sixty-two (62).

10 (b) (i) Any member, who has not completed at least ten (10) years of contributory
11 service on or before July 1, 2005, may retire upon his or her written application to the retirement
12 board as of the first day of the calendar month in which the application was filed; provided, the
13 member was separated from service prior thereto; and further provided, however, that if
14 separation from service occurs during the month in which application is filed, the effective date
15 shall be the first day following that separation from service; provided, the member on his or her
16 retirement date had attained the age of fifty-nine (59) and had completed at least twenty-nine (29)
17 years of total service; or provided, that the member on his or her retirement date had attained the
18 age of sixty-five (65) and had completed at least ten (10) years of contributory service; or
19 provided, that the member on his or her retirement date had attained the age of fifty-five (55) and
20 had completed twenty (20) years of total service and provided, that the retirement allowance, as
21 determined according to the formula in section 16-16-13 is reduced actuarially for each month
22 that the age of the member is less than sixty-five (65) years and who retire before October 1, 2009
23 or are eligible to retire as of September 30, 2009.

24 (ii) For teachers who become eligible to retire on or after October 1, 2009, benefits are
25 available to teachers who have attained the age of sixty-two (62) and have completed at least
26 twenty-nine (29) years of total service or have attained the age of sixty-five (65) and completed at
27 least ten (10) years of contributory service. For teachers in service as of October 1, 2009 who
28 were not eligible to retire as of September 30, 2009, who have a minimum retirement age of
29 sixty-two (62), the retirement age will be adjusted downward in proportion to the amount of
30 service the member has earned as of September 30, 2009. The proportional formula shall work as
31 follows:

32 ~~(1)~~(A) The formula shall determine the first age of retirement eligibility under the laws
33 in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age
34 of sixty-two (62).

1 ~~(2)~~(B) The formula shall then take the teacher's total service credit as of September 30,
2 2009 as the numerator and the years of service credit determined under ~~(4)~~(A) as the
3 denominator.

4 ~~(3)~~(C) The fraction determined in ~~(2)~~(B) shall then be multiplied by the age difference
5 determined in ~~(4)~~(A) to apply a reduction in years from age sixty-two (62).

6 ~~(2)~~(c) Any member also paying into the retirement system under the provisions of
7 chapter 9 of title 36 shall not be disqualified from receiving benefits provided by that chapter and
8 the provisions of this chapter simultaneously.

9 ~~(3)~~~~(4)~~(d) (1) Except as specifically provided in sections 36-10-9.1, 36-10-12 through 36-
10 10-15, and 45-21-19 through 45-21-22, no member shall be eligible for pension benefits under
11 this chapter unless the member shall have been a contributing member of the employees'
12 retirement system for at least ten (10) years.

13 ~~(4)~~(2) Provided, however, a person who has ten (10) years service credit shall be vested.

14 ~~(4)~~(3) Furthermore, any past service credits purchased in accordance with section 36-9-
15 38 shall be counted towards vesting.

16 ~~(4)~~(4) Any person who becomes a member of the employees' retirement system
17 pursuant to section 45-21-8 shall be considered a contributing member for the purpose of chapter
18 21 of title 45 and this chapter.

19 ~~(4)~~(5) Notwithstanding any other provision of law, no more than five (5) years of service
20 credit may be purchased by a member of the system. The five (5) year limit shall not apply to any
21 purchases made prior to January 1, 1995. A member who has purchased more than five (5) years
22 of service credit before January 1, 1995, shall be permitted to apply the purchases towards the
23 member's service retirement. However, no further purchase will be permitted. Repayment, in
24 accordance with applicable law and regulation, of any contribution previously withdrawn from
25 the system shall not be deemed a purchase of service credit.

26 ~~(4)~~(e) No member of the teachers' retirement system shall be permitted to purchase
27 service credits for casual or seasonal employment, for employment as a page in the general
28 assembly, or for employment at any state college or university while the employee is a student or
29 graduate of the college or university.

30 ~~(5)~~(f) Except as specifically provided in sections 16-16-6.2 and 16-16-6.4, a member
31 shall not receive service credit in this retirement system for any year or portion of a year which
32 counts as service credit in any other retirement system in which the member is vested or from
33 which the member is receiving a pension and/or any annual payment for life. This subsection
34 shall not apply to any payments received pursuant to the federal Social Security Act, 42 U.S.C.

1 section 301 et seq.

2 ~~(6)~~(g) A member who seeks to purchase or receive service credit in this retirement
3 system shall have the affirmative duty to disclose to the retirement board whether or not he or she
4 is a vested member in any other retirement system and/or is receiving a pension, retirement
5 allowance, or any annual payment for life. The retirement board shall have the right to investigate
6 as to whether or not the member has utilized the same time of service for credit in any other
7 retirement system. The member has an affirmative duty to cooperate with the retirement board
8 including, by way of illustration and not by way of limitation, the duty to furnish or have
9 furnished to the retirement board any relevant information that is protected by any privacy act.

10 ~~(7)~~(h) A member who fails to cooperate with the retirement board shall not have the time
11 of service credit counted toward total service credit until the time the member cooperates with the
12 retirement board and until the time the retirement board determines the validity of the service
13 credit.

14 ~~(8)~~(i) A member who knowingly makes a false statement to the retirement board
15 regarding service time or credit shall not be entitled to a retirement allowance and is entitled only
16 to the return of his or her contributions without interest.

17 SECTION 2. Section 19-14-1 of the General Laws in Chapter 19-14 entitled "Licensed
18 Activities" is hereby amended to read as follows:

19 **19-14-1. Definitions.** -- Unless otherwise specified, the following terms shall have the
20 following meanings throughout chapters 14.1, 14.2, 14.3, 14.4, 14.6, 14.8 and 14.10 of this title:

21 (1) "Check" means any check, draft, money order, personal money order, or other
22 instrument for the transmission or payment of money. For the purposes of check cashing,
23 travelers checks or foreign denomination instruments shall not be considered checks. "Check
24 cashing" means providing currency for checks;

25 (2) "Deliver" means to deliver a check to the first person who in payment for the check
26 makes or purports to make a remittance of or against the face amount of the check, whether or not
27 the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer
28 signs the check;

29 (3) "Electronic money transfer" means receiving money for transmission within the
30 United States or to locations abroad by any means including, but not limited to, wire, facsimile or
31 other electronic transfer system;

32 (4) (i) "Lender" means any person who makes or funds a loan within this state with the
33 person's own funds, regardless of whether the person is the nominal mortgagee or creditor on the
34 instrument evidencing the loan;

1 (ii) A loan is made or funded within this state if any of the following conditions exist:

2 (A) The loan is secured by real property located in this state;

3 (B) An application for a loan is taken by an employee, agent, or representative of the
4 lender within this state;

5 (C) The loan closes within this state;

6 (D) The loan solicitation is done by an individual with a physical presence in this state;

7 or

8 (E) The lender maintains an office in this state.

9 (iii) The term "lender" shall also include any person engaged in a transaction whereby
10 the person makes or funds a loan within this state using the proceeds of an advance under a line
11 of credit over which proceeds the person has dominion and control and for the repayment of
12 which the person is unconditionally liable. This transaction is not a table funding transaction. A
13 person is deemed to have dominion and control over the proceeds of an advance under a line of
14 credit used to fund a loan regardless of whether:

15 (A) The person may, contemporaneously with or shortly following the funding of the
16 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an
17 advance to the person under the line of credit;

18 (B) The proceeds of an advance are delivered directly to the settlement agent by the line
19 of credit lender, unless the settlement agent is the agent of the line of credit lender;

20 (C) One or more loans funded by the proceeds of an advance under the line of credit is
21 purchased by the line of credit lender; or

22 (D) Under the circumstances as set forth in regulations adopted by the director or the
23 director's designee pursuant to this chapter;

24 (5) "Licensee" means any person licensed under this chapter;

25 (6) "Loan" means any advance of money or credit including, but not limited to:

26 (i) Loans secured by mortgages;

27 (ii) Insurance premium finance agreements;

28 (iii) The purchase or acquisition of retail installment contracts or advances to the holders
29 of those contracts;

30 (iv) Educational loans;

31 (v) Any other advance of money; or

32 (vi) Any transaction such as those commonly known as "pay day loans," "pay day
33 advances," or "deferred presentment loans," in which a cash advance is made to a customer in
34 exchange for the customer's personal check, or in exchange for the customer's authorization to

1 debit the customer's deposit account, and where the parties agree either that the check will not be
2 cashed or deposited, or that customer's deposit account will not be debited, until a designated
3 future date.

4 (7) "Loan broker" means any person who, for compensation or gain, or in the expectation
5 of compensation or gain, either directly or indirectly, solicits, processes, negotiates, places or sells
6 a loan within this state for others in the primary market, or offers to do so. A loan broker shall
7 also mean any person who is the nominal mortgagee or creditor in a table funding transaction. A
8 loan is brokered within this state if any of the following conditions exist:

9 (i) The loan is secured by real property located in this state;

10 (ii) An application for a loan is taken or received by an employee, agent or representative
11 of the loan broker within this state;

12 (iii) The loan closes within this state;

13 (iv) The loan solicitation is done by an individual with a physical presence in this state;

14 or

15 (v) The loan broker maintains an office in this state.

16 (8) "Personal money order" means any instrument for the transmission or payment of
17 money in relation to which the purchaser or remitter appoints or purports to appoint the seller as
18 his or her agent for the receipt, transmission, or handling of money, whether the instrument is
19 signed by the seller or by the purchaser or remitter or some other person;

20 (9) "Primary market" means the market in which loans are made to borrowers by lenders,
21 whether or not through a loan broker or other conduit;

22 (10) "Principal owner" means any person who owns, controls, votes or has a beneficial
23 interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital stock
24 and/or equity interest of a licensee;

25 (11) "Sell" means to sell, to issue, or to deliver a check;

26 (12) "Small loan" means a loan of less than five thousand dollars (\$5,000), not secured
27 by real estate, made pursuant to the provisions of chapter 14.2 of this title;

28 (13) "Small loan lender" means a lender engaged in the business of making small loans
29 within this state;

30 (14) "Table funding transaction" means a transaction in which there is a
31 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
32 the loan to the lender;

33 (15) "Check casher" means a person or entity that, for compensation, engages, in whole
34 or in part, in the business of cashing checks;

1 (16) "Deferred deposit transaction" means any transaction such as those commonly
2 known as "pay-day loans," "pay-day advances," or "deferred presentment loans" in which a cash
3 advance is made to a customer in exchange for the customer's personal check or in exchange for
4 the customer's authorization to debit the customer's deposit account and where the parties agree
5 either that the check will not be cashed or deposited, or that the customer's deposit account will
6 not be debited until a designated future date;

7 (17) "Insurance premium finance agreement" means an agreement by which an insured,
8 or prospective insured, promises to pay to an insurance premium finance company the amount
9 advanced or to be advanced, under the agreement to an insurer or to an insurance producer, in
10 payment of a premium or premiums on an insurance contract or contracts, together with interest
11 and a service charge, as authorized and limited by this title;

12 (18) "Insurance premium finance company" means a person engaged in the business of
13 making insurance premium finance agreements or acquiring insurance premium finance
14 agreements from other insurance premium finance companies;

15 (19) "Simple interest" means interest computed on the principal balance outstanding
16 immediately prior to a payment for the actual number of days between payments made on a loan
17 over the life of a loan;

18 (20) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. section
19 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,
20 employee, agent, or other affiliated person profits financially other than receiving reasonable
21 salaries if applicable;

22 (21) "Mortgage loan originator" has the same meaning set forth in subdivision 19-14.10-
23 3(6);

24 (22) "Mortgage loan" means a loan secured in whole or in part by real property located
25 in this state;

26 (23) "Loan solicitation" shall mean an effectuation, procurement, delivery and offer, and
27 advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
28 and assisting persons in completing loan applications and/or advising, conferring, or informing
29 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan
30 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
31 solicitation does not include telemarketing which is defined for purposes of this section to mean
32 contacting a person by telephone with the intention of collecting such person's name, address and
33 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
34 inquiry;

1 (24) "Processes" shall mean, with respect to a loan, any of a series of acts or functions
2 including the preparation of a loan application and supporting documents performed by a person
3 which leads to or results in the acceptance, approval, denial, and/or withdrawal of a loan
4 application, including, without limitation, the rendering of services including loan underwriting,
5 obtaining verifications, credit reports or appraisals, communicating with the applicant and/or the
6 lender or loan broker, and/or other loan processing and origination services for consideration by a
7 lender or loan broker. Loan processing does not include the following:

8 ~~(A)~~(i) Providing loan closing services;

9 ~~(B)~~(ii) Rendering of credit reports by an authorized credit reporting agency; and

10 ~~(C)~~(iii) Rendering of appraisal services.

11 (25) "Loan underwriting" shall mean a loan process that involves the analysis of risk
12 with respect to the decision whether to make a loan to a loan applicant based on credit,
13 employment, assets, and other factors including evaluating a loan applicant against a lender's
14 various lending criteria for creditworthiness, making a determination for the lender as to whether
15 the applicant meets the lender's pre-established credit standards and/or making a recommendation
16 regarding loan approval;

17 (26) "Negotiates" shall mean, with respect to a loan, to confer directly with or offer
18 advice directly to a loan applicant or prospective loan applicant for a loan product or service
19 concerning any of the substantive benefits, terms, or conditions of the loan product or service;

20 (27) "Natural person employee" shall mean any natural person performing services as a
21 bona-fide employee for a person licensed under the provisions of Rhode Island general laws
22 section 19-14-1, et. seq., in return for a salary, wage, or other consideration, where such salary,
23 wage, or consideration is reported by the licensee on a federal form W-2 payroll record. The term
24 does not include any natural person or business entity performing services for a person licensed
25 under the provisions of Rhode Island general laws in return for a salary, wage, or other
26 consideration, where such salary, wage, or consideration is reported by the licensee on a federal
27 form 1099;

28 (28) "Bona-fide employee" shall mean an employee of a licensee who works under the
29 oversight and supervision of the licensee;

30 (29) "Oversight and supervision of the licensee" shall mean that the licensee provides
31 training to the employee, sets the employee's hours of work, and provides the employee with the
32 equipment and physical premises required to perform the employee's duties;

33 (30) "Operating subsidiary" shall mean a majority-owned subsidiary of a financial
34 institution or banking institution that engages only in activities permitted by the parent financial

1 institution or banking institution;

2 (31) "Provisional employee" means a natural person who, pursuant to a written
3 agreement between the natural person and a wholly owned subsidiary of a financial holding
4 company, as defined in The Bank Holding Company Act of 1956, as amended, a bank holding
5 company, savings bank holding company, or thrift holding company, is an exclusive agent for the
6 subsidiary with respect to mortgage loan originations, and the subsidiary: (a) holds a valid loan
7 broker's license and (b) enters into a written agreement with the director or the director's designee
8 to include:

9 (i) An "undertaking of accountability" in a form prescribed by the director or the
10 director's designee, for all of the subsidiary's exclusive agents to include full and direct financial
11 and regulatory responsibility for the mortgage loan originator activities of each exclusive agent as
12 if said exclusive agent was an employee of the subsidiary;

13 (ii) A business plan to be approved by the director or the director's designee, for the
14 education of the exclusive agents, the handling of consumer complaints related to the exclusive
15 agents, and the supervision of the mortgage loan origination activities of the exclusive agents;

16 (iii) A restriction of the exclusive agents' mortgage loan originators' activities to loans to
17 be made only by the subsidiary's affiliated bank; and

18 (32) "Multi-state licensing system" means a system involving one or more states, the
19 District of Columbia, or the Commonwealth of Puerto Rico established to facilitate the sharing of
20 regulatory information and the licensing, application, reporting and payment processes, by
21 electronic or other means, for mortgage lenders and loan brokers, and other licensees required to
22 be licensed under this chapter.

23 (33) "Negative equity" means the difference between the value of an asset and the
24 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
25 amount.

26 (34) "Loan closing services" means providing title services, including title searches, title
27 examinations, abstract preparation, insurability determinations, and the issuance of title
28 commitments and title insurance policies, conducting loan closings, and preparation of loan
29 closing documents when performed by or under the supervision of a licensed attorney, licensed
30 title agency, ~~or~~ [or](#) licensed title insurance company.

31 SECTION 3. Section 27-30-11 of the General Laws in Chapter 27-30 entitled "Consumer
32 Credit Insurance" is hereby amended to read as follows:

33 **27-30-11. Existing insurance -- Choice of insurer.** -- When consumer credit insurance
34 is required as additional security for any [indebtedness](#) the debtor shall, upon request to the

1 creditor, have the option of furnishing the required amount of insurance through existing policies
2 of insurance owned or controlled by the debtor of procuring and furnishing the required coverage
3 through any insurer authorized to transact an insurance business within this state.

4 SECTION 4. Sections 31-5.1-4 and 31-5.1-21 of the General Laws in Chapter 31-5.1
5 entitled "Regulation of Business Practices Among Motor Vehicle Manufacturers, Distributors,
6 and Dealers" are hereby amended to read as follows:

7 **31-5.1-4. Violations.** -- (a) It shall be deemed a violation of this chapter for any
8 manufacturer or motor vehicle dealer to engage in any action which is arbitrary, in bad faith, or
9 unconscionable and which causes damage to any of the parties involved or to the public.

10 (b) It shall be deemed a violation of this chapter for a manufacturer, or officer, agent, or
11 other representative of a manufacturer, to coerce, or attempt to coerce, any motor vehicle dealer:

12 (1) To order or accept delivery of any motor vehicle or vehicles, equipment, parts, or
13 accessories for them, or any other commodity or commodities which the motor vehicle dealer has
14 not voluntarily ordered.

15 (2) To order or accept delivery of any motor vehicle with special features, accessories, or
16 equipment not included in the list price of that motor vehicle as publicly advertised by the
17 manufacturer of the vehicle.

18 (3) To participate monetarily in an advertising campaign or contest, or to purchase any
19 promotional materials, or training materials, showroom or other display decorations or materials
20 at the expense of the new motor vehicle dealership.

21 (4) To enter into any agreement with the manufacturer or to do any other act prejudicial
22 to the new motor vehicle dealer by threatening to terminate or cancel a franchise or any
23 contractual agreement existing between the dealer and the manufacturer; except that this
24 subdivision is not intended to preclude the manufacturer or distributor from insisting on
25 compliance with the reasonable terms or provisions of the franchise or other contractual
26 agreement, and notice in good faith to any new motor vehicle dealer of the new motor vehicle
27 dealer's violation of those terms or provisions shall not constitute a violation of the chapter.

28 (5) To refrain from participation in the management of, investment in, or acquisition of
29 any other line of new motor vehicle or related products. This subdivision does not apply unless
30 the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new
31 motor vehicle, the new motor vehicle dealer remains in compliance with any reasonable facilities
32 requirements of the manufacturer, and no change is made in the principal management of the new
33 motor vehicle dealer.

34 (6) To assent to a release, assignment, novation, waiver, or estoppel in connection with

1 the transfer or voluntary termination of a franchise, or which would relieve any person from the
2 liability to be imposed by this law or to require any controversy between a new motor vehicle
3 dealer and a manufacturer, distributor, or representative to be referred to any person other than
4 the duly constituted courts of this state or of the United States of America, or to the department of
5 revenue of this state, if that referral would be binding upon the new motor vehicle dealer.

6 (7) To order for any person any parts, accessories, equipment, machinery, tools or any
7 commodities.

8 (c) It shall be deemed a violation of this chapter for a manufacturer, or officer, agent, or
9 other representative:

10 (1) To refuse to deliver in reasonable quantities and within a reasonable time after
11 receipt of the dealer's order, to any motor vehicle dealer having a franchise or contractual
12 arrangement for the retail sale of new motor vehicles sold or distributed by the manufacturer, any
13 motor vehicles covered by the franchise or contract, specifically publicly advertised by the
14 manufacturer to be available for immediate delivery. However, the failure to deliver any motor
15 vehicle shall not be considered a violation of this chapter if that failure is due to an act of God,
16 work stoppage or delay due to a strike or labor difficulty, shortage of materials, a freight
17 embargo, or other cause over which the manufacturer, distributor, or wholesaler, or its agent,
18 shall have no control.

19 (2) To refuse to deliver or otherwise deny to any motor vehicle dealer having a franchise
20 or contractual arrangement for the retail sale of new motor vehicles sold or distributed by the
21 manufacturer any particular new motor vehicle model made or distributed by the manufacturer
22 under the name of the division of the manufacturer of which the dealer is an authorized franchise.

23 (3) It shall be deemed a prima facie violation of this chapter for any automotive vehicle
24 division manufacturer to require any separate franchise or contractual arrangement with any new
25 motor vehicle dealer already a party to a franchise or contractual arrangement with that
26 automotive vehicle division for the retail sale of any particular new motor vehicle model made or
27 distributed by that division.

28 (4) To coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement
29 with the manufacturer, or their officers, agents, or other representatives, or to do any other act
30 prejudicial to the dealer, by threatening to cancel any franchise or any contractual agreement
31 existing between the manufacturer and the dealer. Notice in good faith to any motor vehicle
32 dealer of the dealer's violation of any terms or provisions of the franchise or contractual
33 agreement shall not constitute a violation of this chapter.

34 (5) To resort to or use any false or misleading advertisement in connection with his or

1 her business as a manufacturer, an officer, agent, or other representative.

2 (6) To sell or lease any new motor vehicle to, or through, any new motor vehicle dealer
3 at a lower actual price therefore than the actual price offered to any other new motor vehicle
4 dealer for the same model vehicle similarly equipped or to utilize any device, including, but not
5 limited to, sales promotion plans or programs, which result in a lesser actual price. The provisions
6 of this paragraph shall not apply to sales to a new motor vehicle dealer for resale to any unit of
7 the United States government, or to the state or any of its political subdivisions. A manufacturer
8 may not reduce the price of a motor vehicle charged to a dealer or provide different financing
9 terms to a dealer in exchange for the dealer's agreement to:

- 10 (i) Maintain an exclusive sales or service facility;
- 11 (ii) Build or alter a sales or service facility; or
- 12 (iii) Participate in a floor plan or other financing.

13 (7) To sell or lease any new motor vehicle to any person, except a manufacturer's
14 employee, at a lower actual price than the actual price offered and charged to a new motor vehicle
15 dealer for the same model vehicle similarly equipped or to utilize any device which results in a
16 lesser actual price. The provisions of this paragraph shall not apply to sales to a new motor
17 vehicle dealer for resale to any unit of the United States government, or to the state or any of its
18 political subdivisions.

19 (8) To offer in connection with the sale of any new motor vehicle or vehicles directly or
20 indirectly to a fleet purchaser within or without this state terms, discounts, refunds, or other
21 similar types of inducements to that purchaser without making the same offer or offers available
22 to all of its new motor vehicles dealers in this state. No manufacturer may impose or enforce any
23 restrictions against new motor vehicle dealers in this state or their leasing, rental, or fleet
24 divisions or subsidiaries that are not imposed or enforced against any other direct or indirect
25 purchaser from the manufacturer. The provisions of this paragraph shall not apply to sales to a
26 new motor vehicle dealer for resale to any unit of the United States government, or to the state or
27 any of its political subdivisions.

28 (9) To use or consider the performance of a motor vehicle dealer relating to the sale of
29 the manufacturer's vehicles or the motor vehicle dealer's ability to satisfy any minimum sales or
30 market share quota or responsibility relating to the sale of the manufacturer's new vehicles in
31 determining:

- 32 (i) The motor vehicle dealer's eligibility to purchase program, certified, or other used
33 motor vehicles from the manufacturer;
- 34 (ii) The volume, type, or model of program, certified, or other used motor vehicles that a

1 motor vehicle dealer is eligible to purchase from the manufacturer;

2 (iii) The price of any program, certified, or other used motor vehicle that the dealer is
3 eligible to purchase from the manufacturer; or

4 (iv) The availability or amount of any discount, credit, rebate, or sales incentive that the
5 dealer is eligible to receive from the manufacturer for the purchase of any program, certified, or
6 other used motor vehicle offered for sale by the manufacturer.

7 (10) To offer to sell or to sell parts or accessories to any new motor vehicle dealer for
8 use in the dealer's own business for the purpose of repairing or replacing the same parts or
9 accessories or a comparable part or accessory, at a lower actual price than the actual price
10 charged to any other new motor vehicle dealer for similar parts or accessories to use in the
11 dealer's own business. In those cases where new motor vehicle dealers operate or serve as
12 wholesalers of parts and accessories to retail outlets, these provision shall be construed to prevent
13 a manufacturer, or their agents, from selling to a new motor vehicle dealer who operates and
14 services as a wholesaler of parts and accessories, any parts and accessories that may be ordered
15 by that new motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual
16 price charged a new motor vehicle dealer who does not operate or serve as a wholesaler of parts
17 and accessories.

18 (11) To prevent or attempt to prevent by contract or otherwise any new motor vehicle
19 dealer from changing the capital structure of his or her dealership or the means by which or
20 through which the dealer finances the operation of his or her dealership. However, the new motor
21 vehicle dealer shall at all times meet any reasonable capital standards agreed to between the
22 dealership and the manufacturer, provided that any change in the capital structure by the new
23 motor vehicle dealer does not result in a change in the executive management control of the
24 dealership.

25 (12) To prevent or attempt to prevent by contract or otherwise any new motor vehicle
26 dealer or any officer, partner, or stockholder of any new motor vehicle dealer from selling or
27 transferring any part of the interest of any of them to any other person or persons or party or
28 parties. Provided, however, that no dealer, officer, partner, or stockholder shall have the right to
29 sell, transfer or assign the franchise or power of management or control without the consent of the
30 manufacturer, except that the consent shall not be unreasonably withheld.

31 (13) To obtain money, goods, services, anything of value, or any other benefit from any
32 other person with whom the new motor vehicle dealer does business, on account of or in relation
33 to the transactions between the dealer and that other person, unless that benefit is promptly
34 accounted for and transmitted to the new motor vehicle dealer.

1 (14) To compete with a new motor vehicle dealer operating under an agreement or
2 franchise from the manufacturer in the state of Rhode Island, through the ownership, operation, or
3 control of any new motor vehicle dealers in this state or by participation in the ownership,
4 operation, or control of any new motor vehicle dealer in this state. A manufacturer shall not be
5 deemed to be competing when operating, controlling, or owning a dealership either temporarily
6 for a reasonable period in any case not to exceed one year, which one year period may be
7 extended for a one-time additional period of up to six (6) months upon application to and
8 approval by the motor vehicle dealers license and hearing board, which approval shall be subject
9 to the manufacturer demonstrating the need for this extension, and with other new motor vehicle
10 dealers of the same line making being given notice and an opportunity to be heard in connection
11 with said application, or in a bona fide relationship in which an independent person had made a
12 significant investment subject to loss in the dealership and can reasonably expect to acquire full
13 ownership of the dealership on reasonable terms and conditions within a reasonable period of
14 time.

15 (15) To refuse to disclose to any new motor vehicle dealer, handling the same line or
16 make, the manner and mode of distribution of that line or make within the relevant market area.

17 (16) To increase prices of new motor vehicles which the new motor vehicle dealer had
18 ordered for private retail consumers prior to the new motor vehicle dealer's receipt of the written
19 official price increase notification. A sales contract signed by a private retail consumer shall
20 constitute evidence of an order provided that the vehicle is in fact delivered to that customer. In
21 the event of manufacturer price reductions or cash rebates paid to the new motor vehicle dealer,
22 the amount of any reduction or rebate received by a new motor vehicle dealer shall be passed on
23 to the private retail consumer by the new motor vehicle dealer. Price reductions shall apply to all
24 vehicles in the dealer's inventory which were subject to the price reduction. Price differences
25 applicable to new model or series motor vehicles at the time of the introduction of new models or
26 series shall not be considered a price increase or price decrease. Price changes caused by either:
27 (i) the addition to a motor vehicle of required or optional equipment; (ii) revaluation of the United
28 States dollar, in the case of foreign-make vehicles or components; or (iii) an increase in
29 transportation charges due to increased rates imposed by common carriers, shall not be subject to
30 the provisions of this subdivision.

31 (17) To release to any outside party, except under subpoena or as otherwise required by
32 law or in an administrative, judicial, or arbitration proceeding involving the manufacturer or new
33 motor vehicle dealer, any business, financial, or personal information which may be from time to
34 time provided by the new motor vehicle dealer to the manufacturer, without the express written

1 consent of the new motor vehicle dealer.

2 (18) To unfairly discriminate among its new motor vehicle dealers with respect to
3 warranty reimbursement, or any program that provides assistance to its dealers, including Internet
4 listings; sales leads; warranty policy adjustments; marketing programs; and dealer recognition
5 programs.

6 (19) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise
7 to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state.

8 (20) To fail to respond in writing to a request for consent as specified in subdivision (19)
9 of this subsection within sixty (60) days of the receipt of a written request on the forms, if any,
10 generally utilized by the manufacturer or distributor for those purposes and containing the
11 information required therein. The failure to respond shall be deemed to be a consent to the
12 request. A manufacturer may not impose a condition on the approval of a sale, transfer, or
13 exchange of the franchise if the condition would violate the provisions of this chapter if imposed
14 on an existing dealer.

15 (21) To unfairly prevent a new motor vehicle dealer from receiving fair and reasonable
16 compensation for the value of the new motor vehicle dealership.

17 (22) To require that a new motor vehicle dealer execute a written franchise agreement
18 that does not contain substantially the same provisions as the franchise agreement being offered
19 to other new motor vehicle dealers handling the same line or make. In no instance shall the term
20 of any franchise agreement be of a duration of less than three (3) years.

21 (23) To require that a new motor vehicle dealer provide exclusive facilities, personnel, or
22 display space taking into consideration changing market conditions, or that a dealer execute a site
23 control agreement giving a manufacturer control over the dealer's facilities.

24 (24) To require that a dealer expand facilities without a guarantee of a sufficient supply
25 of new motor vehicles to justify that expansion or to require that a dealer expand facilities to a
26 greater degree than is necessary to sell and service the number of vehicles that the dealer sold and
27 serviced in the most recent calendar year.

28 (25) To prevent a dealer from adjusting his or her facilities to permit a relocation of
29 office space, showroom space, and service facilities so long as the relocation is within five
30 hundred (500) yards of the present location.

31 (26) To engage in any predatory practice against a new motor vehicle dealer.

32 (d) It shall be a violation of this chapter for a manufacturer to terminate, cancel, or fail to
33 renew the franchise of a new motor vehicle dealer except as provided in this subsection:

34 (1) Notwithstanding the terms, provisions, or conditions of any franchise, whether

1 entered into before or after the enactment of this chapter or any of its provisions, or
2 notwithstanding the terms or provisions of any waiver, whether entered into before or after the
3 enactment of this chapter or any of its provisions, no manufacturer shall cancel, terminate, or fail
4 to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:

- 5 (i) Satisfied the notice requirement of this subsection;
- 6 (ii) Has good cause for the cancellation, termination, or nonrenewal;
- 7 (iii) Has not committed any violations set forth in subsection (b) of this section; and
- 8 (iv) Has acted in good faith as defined in this chapter and has complied with all
9 provisions of this chapter.

10 (2) Notwithstanding the terms, provisions, or conditions of any franchise or the terms or
11 provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, or
12 nonrenewal when:

13 (i) There is a failure by the new motor vehicle dealer to comply with a provision of the
14 franchise which provision is both reasonable and of material significance to the franchise
15 relationship, provided that the dealer has been notified in writing of the failure within one
16 hundred eighty (180) days after the manufacturer first acquired knowledge of that failure;

17 (ii) If the failure by the new motor vehicle dealer, as provided in paragraph (i) of this
18 subdivision, relates to the performance of the new motor vehicle dealer in sales or service, then
19 good cause shall be defined as the failure of the new motor vehicle dealer to comply with
20 reasonable performance criteria established by the manufacturer if the new motor vehicle dealer
21 was apprised by the manufacturer in writing of that failure; and:

22 (A) The notification stated that notice was provided of failure of performance pursuant to
23 paragraph (i) of this subdivision;

24 (B) The new motor vehicle dealer was afforded a reasonable opportunity, for a period of
25 not less than six (6) months, to comply with those criteria; and

26 (C) The new motor vehicle dealer did not demonstrate substantial progress towards
27 compliance with the manufacturer's performance criteria during that period.

28 (3) The manufacturer shall have the burden of proof for showing that the notice
29 requirements have been complied with, that there was good cause for the franchise termination,
30 cancellation or nonrenewal, and that the manufacturer has acted in good faith.

31 (i) Notwithstanding the terms, provisions, or conditions of any franchise, prior to the
32 termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish
33 notification of the termination, cancellation, or nonrenewal to the new motor vehicle dealer as
34 follows:

1 (A) In the manner described in paragraph (ii) of this subdivision; and

2 (B) Not fewer than ninety (90) days prior to the effective date of the termination,
3 cancellation, or nonrenewal; or

4 (C) Not fewer than fifteen (15) days prior to the effective date of the termination,
5 cancellation, or nonrenewal for any of the following reasons:

6 (I) Insolvency of the new motor vehicle dealer, or the filing of any petition by or against
7 the new motor vehicle dealer under any bankruptcy or receivership law;

8 (II) Failure of the new motor vehicle dealer to conduct his customary sales and service
9 operations during his or her customary business hours for seven (7) consecutive business days;

10 (III) Final conviction of the new motor vehicle dealer, or any owner or operator of the
11 dealership, of a crime which is associated with or related to the operation of the dealership;

12 (IV) Revocation of any license which the new motor vehicle dealer is required to have to
13 operate a dealership; or

14 (D) Not fewer than one hundred eighty (180) days prior to the effective date of the
15 termination or cancellation where the manufacturer or distributor is discontinuing the sale of the
16 product line.

17 (ii) Notification under this subsection shall be in writing, shall be by certified mail or
18 personally delivered to the new motor vehicle dealer, and shall contain:

19 (A) A statement of intention to terminate, cancel, or not to renew the franchise;

20 (B) A statement of the reasons for the termination, cancellation, or nonrenewal; and

21 (C) The date on which the termination, cancellation, or nonrenewal shall take effect.

22 (iii) Upon the involuntary or voluntary termination, nonrenewal, or cancellation of any
23 franchise, by either the manufacturer or the new motor vehicle dealer, notwithstanding the terms
24 of any franchise whether entered into before or after the enactment of this chapter or any of its
25 provisions, the new motor vehicle dealer shall be allowed fair and reasonable compensation by
26 the manufacturer for the following:

27 (A) The new motor vehicle dealer's cost, less allowances paid by the manufacturer, of
28 each new, undamaged, unsold and unaltered, except for dealer installed manufacturer-authorized
29 accessories, motor vehicle, regardless of model year purchased from the manufacturer or another
30 dealer of the same line-make in the ordinary course of business within twenty-four (24) months of
31 termination, having five hundred (500) or fewer miles recorded on the odometer that is in the new
32 motor vehicle dealer's inventory at the time of termination, nonrenewal, or cancellation.

33 (B) The new motor vehicle dealer's cost of each new, unused, undamaged, and unsold
34 part or accessory that is in the current parts catalogue or is identical to a part or accessory in the

1 current parts catalogue except for the number assigned to the part or accessory due to a change in
2 the number after the purchase of the part or accessory, and that is still in the original, resalable
3 merchandising package and in an unbroken lot, except that, in the case of sheet metal, a
4 comparable substitute for the original package may be used.

5 (C) The fair market value of each undamaged sign, normal wear and tear excepted,
6 owned by the dealer that bears a trademark or trade name used or claimed by the manufacturer
7 that were purchased as a requirement of the manufacturer.

8 (D) The fair market value of all special tools, and automotive services equipment owned
9 by the dealer that: (I) Were recommended in writing and designated as special tools and
10 equipment; (II) Were purchased as a requirement of the manufacturer; and (III) Are in usable and
11 good condition except for reasonable wear and tear.

12 (E) The cost of transporting, handling, packing, storing, and loading any property that is
13 subject to repurchase under this section.

14 (F) The payments above are due within sixty (60) days from the date the dealer submits
15 an accounting to the manufacturer of the vehicle inventory subject to repurchase, and for other
16 items within sixty (60) days from the date the dealer submits an accounting of the other items
17 subject to repurchase, provided, the new motor vehicle dealer has clear title (or will have clear
18 title upon using the repurchase funds to obtain clear title) to the inventory and other items and is
19 in a position to convey that title to the manufacturer. If the inventory or other items are subject to
20 a security interest, the manufacturer, wholesaler, or franchisor may make payment jointly to the
21 dealer and the holder of the security interest. In no event shall the payments be made later than
22 ninety (90) days of the effective date of the termination, cancellation, or nonrenewal.

23 (iv) In the event the termination, cancellation or nonrenewal is involuntary and not
24 pursuant to subsection (3)(i)(C) of this section, and:

25 (A) The new motor vehicle dealer is leasing the dealership facilities from a lessor other
26 than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent
27 to the rent for the unexpired term of the lease or (2) two year's rent, whichever is less; or

28 (B) If the new motor vehicle dealer owns the facilities, the manufacturer shall pay the
29 new motor vehicle dealer a sum equivalent to the reasonable rental value of the facilities for two
30 (2) years; if:

31 (I) The new motor vehicle dealer is unable to reasonably utilize the facilities for another
32 purpose;

33 (II) The new motor vehicle dealer, or the manufacturer acting as its agent, is unable to
34 make arrangements for the cancellation or assumption of its lease obligations by another party in

1 the case of leased facilities, or is unable to sell dealer owned facilities, and

2 (III) Only to the extent those facilities were required as a condition of the franchise and
3 used to conduct sales and service operations related to the franchise product.

4 (v) In addition to any injunctive relief and any other damages allowable by this chapter,
5 if the manufacturer is discontinuing the product line or fails to prove that there was good cause
6 for the termination, cancellation, or nonrenewal or if the manufacturer fails to prove that the
7 manufacturer acted in good faith, then the manufacturer shall pay the new motor vehicle dealer
8 fair and reasonable compensation for the value of the dealership as an ongoing business.

9 In addition to the other compensation described in paragraphs (iii) and (iv) above and in
10 this section, the manufacturer shall also reimburse the dealer for any costs incurred for facility
11 upgrades or alterations required by the manufacturer within two (2) years of the effective date of
12 the termination.

13 (vi) If a manufacturer is discontinuing the product line and thus as a result a franchise for
14 the sale of motor vehicles is subject to termination, cancellation, or nonrenewal, the manufacturer
15 shall:

16 (A) Authorize the dealer at the dealer's option, that remains a franchised dealer of the
17 manufacturer regardless of the discontinuation of a product line, to continue servicing and
18 supplying parts (without prejudice to the right of the manufacturer to also authorize other
19 franchised dealers to provide service and parts for a discontinued ~~produce~~ product line), including
20 services and parts pursuant to a warranty issued by the manufacturer for any goods or services
21 marketed by the dealer pursuant to the motor vehicle franchise for a period of not less than five
22 (5) years from the effective date of the termination, cancellation, or nonrenewal;

23 (B) Continue to reimburse the dealer that remains a franchised dealer of the
24 manufacturer regardless of the discontinuation of a product line or another franchised dealer of
25 the manufacturer in the area for warranty parts and service in an amount and on terms not less
26 favorable than those in effect prior to the termination, cancellation, or nonrenewal;

27 (C) The manufacturer shall continue to supply the dealer that remains a franchised dealer
28 of the manufacturer regardless of the discontinuation of a product line or another franchised
29 dealer of the manufacturer in the area with replacement parts for any goods or services marketed
30 by the dealer pursuant to the franchise agreement for a period of not less than five (5) years from
31 the effective date of the termination, cancellation, or nonrenewal, at a price and on terms not less
32 favorable than those in effect prior to the termination, cancellation, or nonrenewal;

33 (vii) The requirement of this section do not apply to a termination, cancellation or
34 nonrenewal due to the sale of the assets or stock of the motor vehicle dealer.

1 (D) To be entitled to facilities assistance from the manufacturer as described above, the
2 dealer shall have the obligation to mitigate damages by listing the dealership facilities for lease or
3 sublease with a licensed real estate agent within thirty (30) days after the effective date of the
4 termination of the franchise and thereafter be reasonably cooperating with such real estate agent
5 in the performance of the agent's duties and responsibilities. If the dealer is able to lease or
6 sublease the dealership facilities on terms that are consistent with local zoning requirements to
7 preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's
8 lease, the dealer shall be obligated to pay the manufacturer the net revenue received from such
9 mitigation, but only following receipt of facilities assistance payments pursuant to this chapter,
10 and only up to the total amount of facilities assistance payments that the dealer has received.

11 (e) It shall be deemed a violation of this chapter for a motor vehicle dealer:

12 (1) To require a purchaser of a new motor vehicle, as a condition of the sale and delivery
13 thereof, to also purchase special features, equipment, parts, or accessories not desired or
14 requested by the purchaser. This prohibition shall not apply as to special features, equipment,
15 parts, or accessories which are already installed on the car before sale by the dealer.

16 (2) To represent and sell as a new motor vehicle any motor vehicle which is a used motor
17 vehicle.

18 (3) To resort to or use any false or misleading advertisement in connection with his or
19 her business as a motor vehicle dealer.

20 (4) To engage in any deception or fraudulent practice in the repair of motor vehicles.

21 **31-5.1-21. Promotional activities.** -- (a) Upon filing of a claim, a manufacturer or
22 distributor shall compensate a dealer for any incentive or reimbursement program sponsored by
23 the manufacturer or distributor, under the terms of which the dealer is eligible for compensation.

24 (b) (1) A claim filed under this section shall be:

25 (i) In the manner and form prescribed by the manufacturer, ~~factory branch~~, or distributor;
26 and

27 (ii) Approved or disapproved within thirty (30) days of receipt.

28 (2) A claim not approved or disapproved within thirty (30) days of receipt shall be
29 deemed approved.

30 (3) Payment of a claim filed under this section shall be made within thirty (30) days of
31 approval.

32 (c) (1) If a claim filed under this section is shown by the manufacturer or distributor to
33 be false or unsubstantiated, the manufacturer or distributor may charge back the claim within one
34 year from the date the claim was paid or credit issued or one year from the end of a manufacturer

1 program that does not exceed one year in length, whichever is later.

2 (2) This paragraph does not limit the right of a manufacturer or distributor to charge back
3 for any claim that is proven fraudulent.

4 SECTION 5. Section 40-8.9-6 of the General Laws in Chapter 40-8.9 entitled "Medical
5 Assistance - Long-Term Care Service and Finance Reform" is hereby amended to read as
6 follows:

7 **40-8.9-6. Reporting.** -- Annual reports showing progress in long-term care system
8 reform and rebalancing shall be submitted by April 1st of each year [by](#) the department to the Joint
9 Legislative Committee on Health Care Oversight as well as the finance committees of both the
10 senate and the house of representatives and shall include: the number of persons aged sixty-five
11 (65) years and over and adults with disabilities served in nursing facilities, the number of persons
12 transitioned from nursing homes to Medicaid supported home and community based care, the
13 number of persons aged sixty-five (65) years and over and adults with disabilities served in home
14 and community care to include home care, adult day services, assisted living and shared living,
15 the dollar amounts and percent of expenditures spent on nursing facility care and home and
16 community-based care, and estimates of the continued investments necessary to provide stability
17 to the existing system and establish the infrastructure and programs required to achieve system-
18 wide reform and the targeted goal of spending fifty percent (50%) of Medicaid long-term care
19 dollars on nursing facility care and fifty percent (50%) on home and community-based services.

20 SECTION 6. Section 42-14.5-3 of the General Laws in Chapter 42-14.5 entitled "The
21 Rhode Island Health Care Reform Act of 2004 - Health Insurance Oversight" is hereby amended
22 to read as follows:

23 **42-14.5-3. Powers and duties. [Contingent effective date; see notes under section 42-**
24 **14.5-1]---** **Powers and duties. [Contingent effective date; see effective dates under this**
25 **section.]** --The health insurance commissioner shall have the following powers and duties:

26 (a) To conduct quarterly public meetings throughout the state, separate and distinct from
27 rate hearings pursuant to section 42-62-13, regarding the rates, services and operations of insurers
28 licensed to provide health insurance in the state the effects of such rates, services and operations
29 on consumers, medical care providers, patients, and the market environment in which such
30 insurers operate and efforts to bring new health insurers into the Rhode Island market. Notice of
31 not less than ten (10) days of said hearing(s) shall go to the general assembly, the governor, the
32 Rhode Island Medical Society, the Hospital Association of Rhode Island, the director of health,
33 the attorney general and the chambers of commerce. Public notice shall be posted on the
34 department's web site and given in the newspaper of general circulation, and to any entity in

1 writing requesting notice.

2 (b) To make recommendations to the governor and the house of representatives and
3 senate finance committees regarding health care insurance and the regulations, rates, services,
4 administrative expenses, reserve requirements, and operations of insurers providing health
5 insurance in the state, and to prepare or comment on, upon the request of the governor, or
6 chairpersons of the house or senate finance committees, draft legislation to improve the regulation
7 of health insurance. In making such recommendations, the commissioner shall recognize that it is
8 the intent of the legislature that the maximum disclosure be provided regarding the
9 reasonableness of individual administrative expenditures as well as total administrative costs. The
10 commissioner shall also make recommendations on the levels of reserves including consideration
11 of: targeted reserve levels; trends in the increase or decrease of reserve levels; and insurer plans
12 for distributing excess reserves.

13 (c) To establish a consumer/business/labor/medical advisory council to obtain
14 information and present concerns of consumers, business and medical providers affected by
15 health insurance decisions. The council shall develop proposals to allow the market for small
16 business health insurance to be affordable and fairer. The council shall be involved in the
17 planning and conduct of the quarterly public meetings in accordance with subsection (a) above.
18 The advisory council shall develop measures to inform small businesses of an insurance
19 complaint process to ensure that small businesses that experience rate increases in a given year
20 may request and receive a formal review by the department. The advisory council shall assess
21 views of the health provider community relative to insurance rates of reimbursement, billing and
22 reimbursement procedures, and the insurers' role in promoting efficient and high quality health
23 care. The advisory council shall issue an annual report of findings and recommendations to the
24 governor and the general assembly and present their findings at hearings before the house and
25 senate finance committees. The advisory council is to be diverse in interests and shall include
26 representatives of community consumer organizations; small businesses, other than those
27 involved in the sale of insurance products; and hospital, medical, and other health provider
28 organizations. Such representatives shall be nominated by their respective organizations. The
29 advisory council shall be co-chaired by the health insurance commissioner and a community
30 consumer organization or small business member to be elected by the full advisory council.

31 (d) To establish and provide guidance and assistance to a subcommittee ("The
32 Professional Provider-Health Plan Work Group") of the advisory council created pursuant to
33 subsection (c) above, composed of health care providers and Rhode Island licensed health plans.
34 This subcommittee shall include in its annual report and presentation before the house and senate

1 finance committees the following information:

2 (i) A method whereby health plans shall disclose to contracted providers the fee
3 schedules used to provide payment to those providers for services rendered to covered patients;

4 (ii) A standardized provider application and credentials verification process, for the
5 purpose of verifying professional qualifications of participating health care providers;

6 (iii) The uniform health plan claim form utilized by participating providers;

7 (iv) Methods for health maintenance organizations as defined by section 27-41-1, and
8 nonprofit hospital or medical service corporations as defined by chapters 27-19 and 27-20, to
9 make facility-specific data and other medical service-specific data available in reasonably
10 consistent formats to patients regarding quality and costs. This information would help consumers
11 make informed choices regarding the facilities and/or clinicians or physician practices at which to
12 seek care. Among the items considered would be the unique health services and other public
13 goods provided by facilities and/or clinicians or physician practices in establishing the most
14 appropriate cost comparisons.

15 (v) All activities related to contractual disclosure to participating providers of the
16 mechanisms for resolving health plan/provider disputes; and

17 (vi) The uniform process being utilized for confirming in real time patient insurance
18 enrollment status, benefits coverage, including co-pays and deductibles.

19 (vii) Information related to temporary credentialing of providers seeking to participate in
20 the plan's network and the impact of said activity on health plan accreditation;

21 (viii) The feasibility of regular contract renegotiations between plans and the providers
22 in their networks.

23 (ix) Efforts conducted related to reviewing impact of silent PPOs on physician practices.

24 (e) To enforce the provisions of Title 27 and Title 42 as set forth in section 42-14-5(d).

25 (f) To provide analysis of the Rhode Island Affordable Health Plan Reinsurance Fund.
26 The fund shall be used to effectuate the provisions of sections 27-18.5-8 and 27-50-17.

27 (g) To analyze the impact of changing the rating guidelines and/or merging the
28 individual health insurance market as defined in chapter 27-18.5 and the small employer health
29 insurance market as defined in chapter 27-50 in accordance with the following:

30 (i) The analysis shall forecast the likely rate increases required to effect the changes
31 recommended pursuant to the preceding subsection (g) in the direct pay market and small
32 employer health insurance market over the next five (5) years, based on the current rating
33 structure, and current products.

34 (ii) The analysis shall include examining the impact of merging the individual and small

1 employer markets on premiums charged to individuals and small employer groups.

2 (iii) The analysis shall include examining the impact on rates in each of the individual
3 and small employer health insurance markets and the number of insureds in the context of
4 possible changes to the rating guidelines used for small employer groups, including: community
5 rating principles; expanding small employer rate bonds beyond the current range; increasing the
6 employer group size in the small group market; and/or adding rating factors for broker and/or
7 tobacco use.

8 (iv) The analysis shall include examining the adequacy of current statutory and
9 regulatory oversight of the rating process and factors employed by the participants in the
10 proposed new merged market.

11 (v) The analysis shall include assessment of possible reinsurance mechanisms and/or
12 federal high-risk pool structures and funding to support the health insurance market in Rhode
13 Island by reducing the risk of adverse selection and the incremental insurance premiums charged
14 for this risk, and/or by making health insurance affordable for a selected at-risk population.

15 (vi) The health insurance commissioner shall work with an insurance market merger task
16 force to assist with the analysis. The task force shall be chaired by the health insurance
17 commissioner and shall include, but not be limited to, representatives of the general assembly, the
18 business community, small employer carriers as defined in section 27-50-3, carriers offering
19 coverage in the individual market in Rhode Island, health insurance brokers and members of the
20 general public.

21 (vii) For the purposes of conducting this analysis, the commissioner may contract with
22 an outside organization with expertise in fiscal analysis of the private insurance market. In
23 conducting its study, the organization shall, to the extent possible, obtain and use actual health
24 plan data. Said data shall be subject to state and federal laws and regulations governing
25 confidentiality of health care and proprietary information.

26 (viii) The task force shall meet as necessary and include their findings in the annual
27 report and the commissioner shall include the information in the annual presentation before the
28 house and senate finance committees.

29 SECTION 7. Section 42-64-20 of the General Laws in Chapter 42-64 entitled "Rhode
30 Island Economic Development Corporation" is hereby amended to read as follows:

31 **42-64-20. Exemption from taxation.** -- (a) The exercise of the powers granted by this
32 chapter will be in all respects for the benefit of the people of this state, the increase of their
33 commerce, welfare, and prosperity and for the improvement of their health and living conditions
34 and will constitute the performance of an essential governmental function and the corporation

1 shall not be required to pay any taxes or assessments upon or in respect of any project or of any
2 property or moneys of the Rhode Island economic development corporation, levied by any
3 municipality or political subdivision of the state; provided, that the corporation shall make
4 payments in lieu of real property taxes and assessments to municipalities and political
5 subdivisions with respect to projects of the corporation located in the municipalities and political
6 subdivisions during those times that the corporation derives revenue from the lease or operation
7 of the projects. Payments in lieu of taxes shall be in amounts agreed upon by the corporation and
8 the affected municipalities and political subdivisions. Failing the agreement, the amounts of
9 payments in lieu of taxes shall be determined by the corporation using a formula that shall
10 reasonably ensure that the amounts approximate the average amount of real property taxes due
11 throughout the state with respect to facilities of a similar nature and size. Any municipality or
12 political subdivision is empowered to accept at its option an amount of payments in lieu of taxes
13 less than that determined by the corporation. If, pursuant to section 42-64-13(f), the corporation
14 shall have agreed with a municipality or political subdivision that it shall not provide all of the
15 specified services, the payments in lieu of taxes shall be reduced by the cost incurred by the
16 corporation or any other person in providing the services not provided by the municipality or
17 political subdivision.

18 (b) The corporation shall not be required to pay state taxes of any kind, and the
19 corporation, its projects, property, and moneys and, except for estate, inheritance, and gift taxes,
20 any bonds or notes issued under the provisions of this chapter and the income (including gain
21 from sale or exchange) from these shall at all times be free from taxation of every kind by the
22 state and by the municipalities and all political subdivisions of the state. The corporation shall not
23 be required to pay any transfer tax of any kind on account of instruments recorded by it or on its
24 behalf.

25 (c) For purposes of the exemption from taxes and assessments upon or in respect of any
26 project under subsections (a) or (b) of this section, the corporation shall not be required to hold
27 legal title to any real or personal property, including any fixtures, furnishings or equipment which
28 are acquired and used in the construction and development of the project, but the legal title may
29 be held in the name of a lessee (including sublessees) from the corporation. This property, which
30 shall not include any goods or inventory used in the project after completion of construction, shall
31 be exempt from taxation to the same extent as if legal title of the property were in the name of the
32 corporation; provided that the board of directors of the corporation adopts a resolution confirming
33 use of the tax exemption for the project by the lessee. Such resolution shall not take effect until
34 thirty (30) days from passage. The resolution shall include findings that: (1) the project is a

1 project of the corporation under section 42-64-3(20), and (2) it is in the interest of the corporation
2 and of the project that legal title be held by the lessee from the corporation. In adopting the
3 resolution, the board of directors may consider any factors it deems relevant to the interests of the
4 corporation or the project including, for example, but without limitation, reduction in potential
5 liability or costs to the corporation or designation of the project as a "Project of Critical Economic
6 Concern" pursuant to Chapter 117 of this title.

7 (d) For purposes of the exemption from taxes and assessments for any project of the
8 corporation held by a lessee of the corporation under subsection (c) of this section, any such
9 project shall be subject to the following additional requirements:

10 (1) The total sales tax exemption benefit to the lessee will be implemented through a
11 reimbursement process as determined by the division of taxation rather than an up-front purchase
12 exemption;

13 (2) The sales tax benefits granted pursuant to RIGL 42-64-20(c) shall: (i) only apply to
14 materials used in the construction, reconstruction or rehabilitation of the project and to the
15 acquisition of furniture, fixtures and equipment, except automobiles, trucks or other motor
16 vehicles, or materials that otherwise are depreciable and have a useful life of one year or more,
17 for the project for a period not to exceed six (6) months after receipt of a certificate of occupancy
18 for any given phase of the project for which sales tax benefits are utilized; and (ii) not exceed an
19 amount equal to the income tax revenue received by the state from the new full-time jobs with
20 benefits excluding project construction jobs, generated by the project within a period of three (3)
21 years from after the receipt of a certificate of occupancy for any given phase of the project. "Full-
22 time jobs with benefits" means jobs that require working a minimum of thirty (30) hours per
23 week within the state, with a median wage that exceeds by five percent (5%) the median annual
24 wage for the preceding year for full-time jobs in Rhode Island, as certified by the department of
25 labor and training with a benefit package that is typical of companies within the lessee's industry.

26 (3) The corporation shall transmit the analysis required by RIGL 42-64-10(a)(2) to the
27 house and senate fiscal committee chairs, the department of labor and training and the division of
28 taxation promptly upon completion. Annually thereafter, the department of labor and training
29 shall certify to the house and senate fiscal committee chairs, the house and senate fiscal advisors,
30 the corporation and the division of taxation the actual number of new full-time jobs with benefits
31 created by the project, in addition to construction jobs, and whether such new jobs are on target to
32 meet or exceed the estimated number of new jobs identified in the analysis above. This
33 certification shall no longer be required when the total amount of new income tax revenue
34 received by the state exceeds the amount of the sales tax exemption benefit granted above. ~~For~~

1 ~~purposes of this section.~~

2 (4) The department of labor and training shall certify to the house and senate fiscal
3 committee chairs and the division of taxation that jobs created by the project are "new jobs" in the
4 state of Rhode Island, meaning that the employees of the project are in addition to, and without a
5 reduction of, those employees of the lessee currently employed in Rhode Island, are not relocated
6 from another facility of the lessee's in Rhode Island or are employees assumed by the lessee as
7 the result of a merger or acquisition of a company already located in Rhode Island. Additionally,
8 the corporation, with the assistance of the lessee, the department of labor and training, the
9 department of human services and the division of taxation shall provide annually an analysis of
10 whether any of the employees of the project qualify for RIte Care or RIte Share benefits and the
11 impact such benefits or assistance may have on the state budget.

12 (5) Notwithstanding any other provision of law, the division of taxation, the department
13 of labor and training and the department of human services are authorized to present, review and
14 discuss lessee specific tax or employment information or data with the corporation, the house and
15 senate fiscal committee chairs, and/or the house and senate fiscal advisors for the purpose of
16 verification and compliance with this resolution; and

17 (6) The corporation and the project lessee shall agree that, if at any time prior to the state
18 recouping the amount of the sales tax exemption through new income tax collections from the
19 project, not including construction job income taxes, the lessee will be unable to continue the
20 project, or otherwise defaults on its obligations to the corporation, the lessee shall be liable to the
21 state for all the sales tax benefits granted to the project plus interest, as determined in RIGL 44-1-
22 7, calculated from the date the lessee received the sales tax benefits.

23 SECTION 8. Section 44-17-1 of the General Laws in Chapter 44-17 entitled "Taxation of
24 Insurance Companies" is hereby amended to read as follows:

25 **44-17-1. Companies required to file -- Payment of tax -- Retaliatory rates. --** ~~(a)~~
26 Every domestic, foreign, or alien insurance company, mutual association, organization, or other
27 insurer, including any health maintenance organization, as defined in section 27-41-1, any
28 nonprofit dental service corporation as defined in section 27-20.1-2 and any nonprofit hospital or
29 medical service corporation, as defined in chapters 27-19 and 27-20, except companies mentioned
30 in section 44-17-6, and organizations defined in section 27-25-1, transacting business in this state,
31 shall, on or before March 1 in each year, file with the tax administrator, in the form that he or she
32 may prescribe, a return under oath or affirmation signed by a duly authorized officer or agent of
33 the company, containing information that may be deemed necessary for the determination of the
34 tax imposed by this chapter, and shall at the same time pay an annual tax to the tax administrator

1 of two percent (2%) of the gross premiums on contracts of insurance, except: ~~for Ocean ocean~~
2 marine insurance, as referred to in section 44-17-6, covering property and risks within the state,
3 written during the calendar year ending December 31st next preceding, but in the case of foreign
4 or alien companies, except as provided in section 27-2-17(d) the tax is not less in amount than is
5 imposed by the laws of the state or country under which the companies are organized upon like
6 companies incorporated in this state or upon its agents, if doing business to the same extent in the
7 state or country.

8 SECTION 9. Section 45-19-6 of the General Laws in Chapter 45-19 entitled "Relief of
9 Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

10 **45-19-6. Compensation of fund members.** -- Members of the ~~commission~~ board shall
11 not be compensated for their service on the ~~commission~~ board.

12 SECTION 10. Section 45-39.1-5 of the General Laws in Chapter 45-39.1 entitled
13 "Municipal Water Supplies" is hereby amended to read as follows:

14 **45-39.1-5. Rates.** -- (a) Adequacy. The rates of municipal water supplies shall be
15 adequate to pay for all costs associated with the municipal water supply including, but not limited
16 to, the costs of acquisition, treatment, transmission, distribution, and availability of water, and of
17 system administration and overhead, including metering and billing, programs for the
18 conservation and efficient use of water, including costs of developing, implementing, enforcing
19 and evaluating such conservation programs and including conservation pricing as described in
20 subsection (d), and the cost and/or value of any services or facilities provided by the city or town
21 to the municipal water supply, testing, operation, maintenance, replacement, repair, debt service,
22 and for sufficient operating reserves, revenue stabilization funds, debt service reserves and capital
23 improvement/infrastructure replacement funds to implement water supply system management
24 plans;

25 (b) Equitability. Except for service charges and other fixed fees and charges, rates:

26 (1) Shall be based on metered usage and fairly set among and within the classes and/or
27 types of users;

28 (2) Shall provide that within any class of users the full costs of system capacity,
29 administration, operation, and water supply costs for peak and/or seasonal use is borne by the
30 users that contribute to such peak and/or seasonal use;

31 (3) May provide a basic residential use rate for water use that is designed to make a basic
32 level of water use affordable, and

33 (4) May require implementation of demand management practices, consistent with the
34 standards and guidelines of the water resources board, established pursuant to ~~subsection 46-~~

1 ~~15.8(a)~~ [chapter 46-15.8](#), by wholesale and retail customers;

2 (c) Revenue stabilization. Municipal water suppliers shall in the absence of other
3 sufficient funds available for similar purposes, establish as part of their next rate adjustment a
4 revenue stabilization account to provide for adequacy during periods when revenues decline as a
5 result of implementing water conservation programs, or due to circumstances beyond the
6 reasonable control of the water supplier, including, but not limited to, the weather and drought. A
7 revenue stabilization account shall accumulate a maximum of ten percent (10%) of the annual
8 operating expenses of the supplier and shall be used to supplement other revenues so that the
9 supplier's reasonable costs are compensated;

10 (d) Conservation. Municipal water suppliers shall take effective action to reduce waste of
11 water and to reduce non-agricultural seasonal increases in the use of water, and may adopt
12 conservation pricing as part of a demand management program or otherwise revise their rates as a
13 means to achieve their goals. For the purpose of encouraging conservation of water, suppliers are
14 authorized to adopt increased rates based on quantity used either throughout the year or
15 seasonally. Conservation pricing shall be designed to promote efficient water use, and to limit
16 seasonal non-agricultural outdoor water use, and to the extent possible shall not increase prices
17 for water users with no significant seasonal increase in water use. Revenues generated from the
18 adoption of conservation rates shall be used to fund the revenue stabilization account established
19 pursuant to subsection (c) above, operating reserves, debt service reserves or capital
20 improvement/infrastructure replacement funds; and

21 (e) Billing. Billing shall be, at a minimum, quarterly by December 31, 2013.

22 SECTION 11. Section 17-20-5 of the General Laws in Chapter 17-20 entitled "Mail
23 Ballots" is hereby amended to read as follows:

24 **17-20-5. Residence of person in service or employed outside of the United States. --**

25 The "residence", as defined in section 17-1-3.1, of any person immediately prior to the
26 commencement of that person's active service as a member of the armed forces or of the
27 merchant marine of the United States, or immediately prior to his or her absence from the state in
28 the performance of "services intimately connected with military operations" as defined in section
29 ~~17-20-3(e)~~ [17-20-3\(d\)](#), or immediately prior to his or her employment outside of the United States
30 as defined in section ~~17-20-3(e)~~ [17-20-3\(c\)](#), shall, for the purposes of this chapter, continue to be
31 that person's residence during the time of his or her service and for a period of two (2) years
32 thereafter, unless the person changes his or her residence by registering or by taking other
33 appropriate action to qualify to vote in another city or town within this state or in another state.

34 SECTION 12. Section 36-10.1-2 of the General Laws in Chapter 36-10.1 entitled "Rhode

1 Island Public Employee Pension Revocation and Reduction Act" is hereby amended to read as
2 follows:

3 **36-10.1-2. Definitions.** -- (a) "Crime related to public office or public employment" shall
4 mean any of the following criminal offenses:

5 (1) The committing, aiding, or abetting of an embezzlement of public funds;

6 (2) The committing, aiding, or abetting of any felonious theft by a public officer or
7 employee from his or her employer;

8 (3) Bribery in connection with employment of a public officer or employee; and

9 (4) The committing of any felony by a public officer or employee who, ~~wilfully~~ willfully
10 and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain,
11 or advantage for himself or herself or for some other person through the use or attempted use of
12 the power, rights, privileges, duties, or position of his or her public office or employment
13 position.

14 (b) "Public official" or "public employee" shall mean any current or former state or
15 municipal elected official as defined in section 36-14-2(10), state or municipal appointed official
16 as defined in section 36-14-2(4), and any employee of state or local government, of boards,
17 commissions or agencies as defined in section 36-14-2(8)(i), (ii), who is otherwise entitled to
18 receive or who is receiving retirement benefits under this title, under title 16, under title 45, under
19 title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42,
20 whether that person is acting on a permanent or temporary basis and whether or not compensated
21 on a full-time or part-time basis. For the purposes of this chapter, all these persons are deemed to
22 be engaged in public employment.

23 (c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not
24 include any plea of nolo contendere which does not constitute a conviction by virtue of section
25 12-10-12 or 12-18-3.

26 (d) For purposes of this chapter, "domestic partner" shall be defined as a person who,
27 prior to the decedent's death, was in an exclusive, intimate and committed relationship with the
28 decedent, and who certifies by affidavit that their relationship met the following qualifications:

29 (1) Both partners were at least eighteen (18) years of age and were mentally competent
30 to contract;

31 (2) Neither partner was married to anyone else;

32 (3) Partners were not related by blood to a degree which would prohibit marriage in the
33 state of Rhode Island;

34 (4) Partners resided together and had resided together for at least one year at the time of

1 death; and

2 (5) Partners were financially interdependent as evidenced by at least two (2) of the
3 following:

4 (i) Domestic partnership agreement or relationship contract;

5 (ii) Joint mortgage or joint ownership of primary residence;

6 (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C)
7 joint credit account; (D) joint lease; and/or

8 (iv) The domestic partner had been designated as a beneficiary for the decedent's will,
9 retirement contract or life insurance.

10 SECTION 13. Section 42-56-24 of the General Laws in Chapter 42-56 entitled
11 "Corrections Department" is hereby amended to read as follows:

12 **42-56-24. Earned time for good behavior or program participation or completion. --**

13 (a) The director, or his or her designee, shall keep a record of the conduct of each prisoner, and
14 for each month that a prisoner who has been sentenced to imprisonment for six (6) months or
15 more and not under sentence to imprisonment for life, appears by the record to have faithfully
16 observed all the rules and requirements of the institutions and not to have been subjected to
17 discipline, and is serving a sentence imposed for violation of sexual offenses under sections 11-
18 37-2, 11-37-4, 11-37-6, 11-37-8, 11-37-8.1 and 11-37-8.3 or 11-9-1.3 there shall, with the
19 consent of the director of the department of corrections, or his or her designee, upon
20 recommendation to him or her by the assistant director of institutions/operations, be deducted
21 from the term or terms of sentence of that prisoner the same number of days that there are years
22 in the term of his or her sentence; provided, that when the sentence is for a longer term than ten
23 (10) years, only ten (10) days shall be deducted for one month's good behavior; and provided,
24 further, that in the case of sentences of at least six (6) months and less than one year, one day per
25 month shall be deducted.

26 For the purposes of this subsection computing the number of days to be deducted for
27 good behavior, consecutive sentences shall be counted as a whole sentence. This subsection
28 recognizes the serious nature of sex offenses; promotes community safety and protection of the
29 public; and maintains the ability of the department of corrections to oversee the rehabilitation and
30 supervision of sex offenders.

31 (b) For all prisoners serving sentences of more than one month, and not serving a
32 sentence of imprisonment for life or a sentence imposed for a violation of the sexual offenses
33 identified in subsection (a) the director, or his or her designee, shall keep a record of the conduct
34 of each prisoner, and for each month that prisoner has faithfully observed all the rules and

1 requirements of the institutions and has not been subjected to discipline, there shall, with the
2 consent of the director of the department of corrections or his or her designee and upon
3 recommendation by the assistant director of institutions/operations, be deducted from the term or
4 terms of sentence of that prisoner ten (10) days for each month's good behavior.

5 (c) For every day a prisoner shall be shut up or otherwise disciplined for bad conduct, as
6 determined by the assistant director, institutions/operations, subject to the authority of the
7 director, there shall be deducted one day from the time he or she shall have gained for good
8 conduct.

9 (d) The assistant director, or his or her designee, subject to the authority of the director,
10 shall have the power to restore lost good conduct time in whole or in part upon a showing by the
11 prisoner of subsequent good behavior and disposition to reform.

12 (e) For each month that a prisoner who has been sentenced to imprisonment for more
13 than one month and not under sentence to imprisonment for life who has faithfully engaged in
14 institutional industries there shall, with the consent of the director, upon the recommendations to
15 him or her by the assistant director, institutions/operations, be deducted from the term or terms of
16 the prisoner an additional two (2) days a month.

17 (f) Except those prisoners serving a sentence imposed for violation of any sexual offense
18 committed under sections 11-37-2, 11-37-4, 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3 or ~~11-9-13~~
19 [11-9-1.3](#), for each month that a prisoner who has been sentenced to imprisonment for more than
20 one month and not under sentence to imprisonment for life has participated faithfully in programs
21 that have been determined by the director or his/her designee to address that prisoner's individual
22 needs that are related to his/her criminal behavior, there may, with the consent of the director and
23 upon the recommendation of the assistant director, rehabilitative services, be deducted from the
24 term or terms of the prisoner up to an additional five (5) days a month. Furthermore, whenever
25 the prisoner has successfully completed such program, they may; with the consent of the director
26 and upon the recommendation by the assistant director, rehabilitative services, be deducted from
27 the term or terms of the prisoner up to an additional thirty (30) days.

28 SECTION 14. Section 5-37.7-12 of the General Laws in Chapter 5-37.7 entitled "Rhode
29 Island Health Information Exchange Act of 2008" is hereby amended to read as follows:

30 **5-37.7-12. Reconciliation with other authorities.** -- (a) This chapter shall only apply to
31 the HIE system, and does not apply to any other private and/or public health information systems
32 utilized in Rhode Island, including other health information systems utilized within or by a health
33 care facility or organization.

34 (b) As this chapter provides extensive protection with regard to access to and disclosure

1 of confidential health care information by the HIE, it supplements, with respect to the HIE only,
2 any less stringent disclosure requirements, including, but not limited to, those contained in
3 chapter 37.3 of this title, the health insurance portability and accountability act (HIPAA) and
4 regulations promulgated thereunder, and any other less stringent federal or state law.

5 (c) This chapter shall not be construed to interfere with any other federal or state laws or
6 regulations which provide more extensive protection than provided in this chapter for the
7 confidentiality of health care information. Notwithstanding such provision, because of the
8 extensive protections with regard to access to and disclosure of confidential health care
9 information by the HIE provided for in this chapter, patient authorization obtained for access to or
10 disclosure of information to or from the HIE or a provider participant shall be deemed the same
11 authorization required by other state or federal laws including information regarding mental
12 health (the Rhode Island mental health law, Rhode Island general laws section 40.1-5-1 et seq.);
13 HIV (Rhode Island general laws section ~~23-6-17~~ [23-6.3-7](#)); sexually transmitted disease (Rhode
14 Island general laws sections ~~23-6-17~~ [23-6.3-7](#) and 23-11-9); alcohol and drug abuse (Rhode
15 Island general laws section 23-1.10-1 et seq., 42 U.S.C. section 290dd-2) or genetic information
16 (Rhode Island general laws section 27-41-53, Rhode Island general laws section 27-20-39 and
17 Rhode Island general laws section 27-19-44).

18 SECTION 15. Sections 8-10-23.3 and 8-10-23.4 of the General Laws in Chapter 8-10
19 entitled "Family Court" are hereby amended to read as follows:

20 **8-10-23.3. ~~Jamestown Juvenile hearing board~~ Jamestown juvenile hearing board. --**

21 The town of Jamestown shall have the authority to create a juvenile hearing board subject to the
22 provisions of section 8-10-23.1, and the requirements of the town's regulations, charter or
23 ordinances.

24 **8-10-23.4. ~~North Providence Juvenile hearing board~~ North Providence juvenile**
25 **hearing board. --** The town of North Providence shall use the authority to create a juvenile

26 hearing board subject to the provisions of section 8-10-23.1, notwithstanding the requirements of
27 the town's regulations, charter or ordinances.

28 SECTION 16. Section 9-17-13 of the General Laws in Chapter 9-17 entitled "Witnesses"
29 is hereby amended to read as follows:

30 **9-17-13. Spouses of parties. --** In the trial of every civil cause, the husband or wife of

31 either party shall be deemed a competent witness; provided, that neither shall be permitted to give
32 any testimony tending to criminate the other or to disclose any communication made to him or
33 her, by the other, during their marriage, except on trials of petitions for divorce between them,
34 trials between them involving their respective property rights, and under the provisions of section

1 ~~11-34-3~~ [11-34.1-9](#).

2 SECTION 17. Section 11-37-17 of the General Laws in Chapter 11-37 entitled "Sexual
3 Assault" is hereby amended to read as follows:

4 **11-37-17. Human Immunodeficiency Virus (HIV) -- Mandatory testing.** -- (a) Any
5 person who has admitted to or been convicted of or adjudicated wayward or delinquent by reason
6 of having committed any sexual offense involving sexual penetration, as defined in section 11-37-
7 1, whether or not sentence or fine is imposed or probation granted, shall be ordered by the court
8 upon the petition of the victim, immediate family members of the victim or legal guardian of the
9 victim, to submit to a blood test for the presence of a sexually transmitted disease including, but
10 not limited to, the Human Immunodeficiency Virus (HIV) which causes Acquired Immune
11 Deficiency Syndrome (AIDS) as provided for in chapter 23-6.3.

12 (b) Notwithstanding the limitations imposed by sections ~~23-6-17~~ [23-6.3-7](#) and 5-37.3-4,
13 the results of the HIV test shall be reported to the court, which shall then disclose the results to
14 any victim of the sexual offense who requests disclosure. Review and disclosure of blood test
15 results by the courts shall be closed and confidential, and any transaction records relating to them
16 shall also be closed and confidential.

17 (c) [Deleted by P.L. 2009, ch. 196, section 3, and by P.L. 2009, ch. 289, section 3_.

18 (d) [Deleted by P.L. 2009, ch. 196, section 3, and by P.L. 2009, ch. 289, section 3_.

19 (e) [Deleted by P.L. 2009, ch. 196, section 3, and by P.L. 2009, ch. 289, section 3_.

20 SECTION 18. Sections 23-6.3-1, 23-6.3-4 and 23-6.3-10 of the General Laws in Chapter
21 23-6.3 entitled "Prevention and Suppression of Contagious Diseases - HIV/AIDS" are hereby
22 amended to read as follows:

23 **23-6.3-1. Purpose.** -- The purpose of this chapter is to reduce vulnerability to HIV/AIDS
24 transmission, protect persons who are infected with HIV from discrimination, ensure informed
25 consent for testing, and to provide consistent terms and standards within this title and as
26 applicable to chapters ~~11-34~~ [11-34.1](#), 11-37, 21-28 and 40.1-24.

27 **23-6.3-4. Exceptions to consent requirements.** -- (a) A health care provider may test for
28 the presence of HIV without obtaining consent from the individual to be tested under the
29 following conditions:

30 (1) When the individual to be tested is under one year of age;

31 (2) When a child between one and thirteen (13) years of age appears to be symptomatic
32 for HIV;

33 (3) When the individual to be tested is a minor under the care and authority of the
34 department of children, youth and families, and the director of that department certifies that an

1 HIV test is necessary to secure health or human services for that individual;

2 (4) In a licensed health care facility or health care setting, in the event that an
3 occupational health representative or physician, registered nurse practitioner, physician assistant,
4 or nurse-midwife, not directly involved in the exposure, determines that an employee or
5 emergency service worker, other than one in a supervisory position to the person making the
6 determination, had a significant exposure to the blood and/or body fluids of a patient and the
7 patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the
8 patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for
9 HIV.

10 (i) If a sample of the patient's blood is not otherwise available and the patient refuses to
11 grant consent to draw blood, the employee or emergency service worker may petition the superior
12 court for a court order mandating that the test be performed.

13 (ii) Before a patient or a sample of the patient's blood is required to undergo an HIV test,
14 the employee or emergency service worker must submit to a baseline HIV test within seventy-two
15 (72) hours of the exposure.

16 (iii) No person who determines that an employee or emergency service worker has
17 sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or
18 health care facility who acts in good faith and recommends the test be performed, shall have any
19 liability as a result of their actions carried out under this chapter, unless those persons are proven
20 to have acted in bad faith.

21 (iv) For the purposes of this section, "emergency service worker" means a worker
22 responding on behalf of a licensed ambulance/rescue service, or a fire department or a law
23 enforcement agency, who, in the course of his/her professional duties, has been exposed to bodily
24 fluids in circumstances that present a significant risk of transmission of HIV, and has completed a
25 pre-hospital exposure form in accordance with section 23-4.1-19.

26 (5) In an emergency, where due to a grave medical or psychiatric condition, and it is
27 impossible to obtain consent from the patient or, if applicable under state law, the patient's parent,
28 guardian, or agent.

29 (6) As permitted under section 23-1-38 entitled "HIV Antibody Testing-Sperm
30 Collection or Donation".

31 (7) Any individual convicted of a violation of any provisions of Chapter ~~11-34~~ [11-34.1](#)
32 entitled "~~Prostitution and Lewdness~~" "[Commercial Sexual Activity](#)", shall be required to be tested
33 for HIV unless already documented HIV positive. All individuals tested under this section shall
34 be informed of their test results. All individuals tested under this section who are determined to

1 be injecting and/or intra-nasal drug users shall be referred to appropriate substance abuse
2 treatment as outlined in subsection 23-6.3-3(e).

3 (8) Any individual convicted of possession of any controlled substance as defined in
4 Chapter 21-28 entitled "Uniform Controlled Substances Act", that has been administered with a
5 hypodermic instrument, retractable hypodermic syringe, needle, intra-nasally, or any similar
6 instrument adapted for the administration of drugs shall be required to be tested for HIV unless
7 already documented HIV positive.

8 (9) All individuals tested under this section shall be informed of their test results.

9 (10) In accordance with the provisions of Chapter 11-37, entitled, "Sexual Assault", any
10 individual who has admitted to or been convicted of or adjudicated wayward or delinquent by
11 reason of having committed any sexual offense involving penetration whether or not a sentence or
12 fine is imposed or probation granted, shall be ordered by the court upon petition of the victim,
13 immediate family members of the victim or legal guardian of the victim, to submit to a blood test
14 for the presence of a sexually transmitted disease including, but not limited to, HIV. All
15 individuals tested under this section shall be informed of their test results.

16 (11) In accordance with the provisions or section 42-56-37, entitled "HIV Testing",
17 every individual who is committed to the adult correctional institutions to any criminal offense,
18 after conviction, is required to be tested for HIV.

19 (b) It is unlawful for any person to disclose to a third party the results of an individual's
20 HIV test without the prior written consent of that individual, except in accordance with section
21 23-6.3-7.

22 **23-6.3-10. Notification of disclosure.** -- (a) In all cases when an individual's HIV test
23 results are disclosed to a third-party, other than a person involved in the care and treatment of the
24 individual, and except as permitted by ~~subsections (1), (2)(i), (2)(ii), (2)(iv), or (4) of section 23-~~
25 ~~6-21~~ [section 23-6.3-7](#) (permitted disclosures re: confidentiality), and permitted by and disclosed
26 in accordance with the Federal Health Insurance Portability and Accountability Act of 1996
27 (Public law 104-191) enacted on August 21, 1996 and as thereafter amended, the person so
28 disclosing shall make reasonable efforts to inform that individual in advance of:

29 (1) The nature and purpose of the disclosure;

30 (2) The date of disclosure;

31 (3) The recipient of the disclosed information.

32 (b) Health care providers may inform third-parties with whom an HIV infected patient is
33 in close and continuous exposure related contact, including, but not limited to a spouse and/or
34 partner, if the nature of the contact, in the health care providers opinion, poses a clear and present

1 danger of HIV transmission to the third-party, and if the physician has reason to believe that the
2 patient, despite the health care provider's strong encouragement, has not and will not inform the
3 third-party that they may have been exposed to HIV.

4 SECTION 19. Section 23-17-38.1 of the General Laws in Chapter 23-17 entitled
5 "Licensing of Health Care Facilities" is hereby amended to read as follows:

6 **23-17-38.1. Hospitals -- Licensing fee.** -- (a) There is also imposed a hospital licensing
7 fee at the rate of five and four hundred seventy-three thousandths percent (5.473%) upon the net
8 patient services revenue of every hospital for the hospital's first fiscal year ending on or after
9 January 1, 2007. This licensing fee shall be administered and collected by the tax administrator,
10 division of taxation within the department of administration, and all the administration, collection
11 and other provisions of chapters 50 and 51 of title 14 shall apply. Every hospital shall pay the
12 licensing fee to the tax administrator on or before July 13, 2009 and payments shall be made by
13 electronic transfer of monies to the general treasurer and deposited to the general fund in
14 accordance with section 44-50-11 [\[repealed\]](#). Every hospital shall, on or before June 15, 2009,
15 make a return to the tax administrator containing the correct computation of net patient services
16 revenue for the hospital fiscal year ending September 30, 2007, and the licensing fee due upon
17 that amount. All returns shall be signed by the hospital's authorized representative, subject to the
18 pains and penalties of perjury.

19 (b) There is also imposed a hospital licensing fee at the rate of five and two hundred
20 thirty-seven thousandths percent (5.237%) upon the net patient services revenue of every hospital
21 for the hospital's first fiscal year ending on or after January 1, 2008. This licensing fee shall be
22 administered and collected by the tax administrator, division of taxation within the department of
23 administration, and all the administration, collection and other provisions of chapters 50 and 51 of
24 title 14 shall apply. Every hospital shall pay the licensing fee to the tax administrator on or before
25 July 12, 2010 and payments shall be made by electronic transfer of monies to the general
26 treasurer and deposited to the general fund in accordance with section 44-50-11 [\[repealed\]](#). Every
27 hospital shall, on or before June 14, 2010, make a return to the tax administrator containing the
28 correct computation of net patient services revenue for the hospital fiscal year ending September
29 30, 2007, and the licensing fee due upon that amount. All returns shall be signed by the hospital's
30 authorized representative, subject to the pains and penalties of perjury.

31 (c) For purposes of this section the following words and phrases have the following
32 meanings:

33 (1) "Hospital" means a person or governmental unit duly licensed in accordance with this
34 chapter to establish, maintain, and operate a hospital, except a hospital whose primary service and

1 primary bed inventory are psychiatric.

2 (2) "Gross patient services revenue" means the gross revenue related to patient care
3 services.

4 (3) "Net patient services revenue" means the charges related to patient care services less
5 (i) charges attributable to charity care, (ii) bad debt expenses, and (iii) contractual allowances.

6 (d) The tax administrator shall make and promulgate any rules, regulations, and
7 procedures not inconsistent with state law and fiscal procedures that he or she deems necessary
8 for the proper administration of this section and to carry out the provisions, policy and purposes
9 of this section.

10 (e) The licensing fee imposed by this section shall be in addition to the inspection fee
11 imposed by section 23-17-38 and to any licensing fees previously imposed in accordance with
12 section 23-17-38.1.

13 SECTION 20. Section 40-11-2 of the General Laws in Chapter 40-11 entitled "Abused
14 and Neglected Children" is hereby amended to read as follows:

15 **40-11-2. Definitions.** -- When used in this chapter and unless the specific context
16 indicates otherwise:

17 (1) "Abused and/or neglected child" means a child whose physical or mental health or
18 welfare is harmed or threatened with harm when his or her parent or other person responsible for
19 his or her welfare:

20 (i) Inflicts or allows to be inflicted upon the child physical or mental injury, including
21 excessive corporal punishment; or

22 (ii) Creates or allows to be created a substantial risk of physical or mental injury to the
23 child, including excessive corporal punishment; or

24 (iii) Commits or allows to be committed, against the child, an act of sexual abuse; or

25 (iv) Fails to supply the child with adequate food, clothing, shelter, or medical care,
26 though financially able to do so or offered financial or other reasonable means to do so; or

27 (v) Fails to provide the child with a minimum degree of care or proper supervision or
28 guardianship because of his or her unwillingness or inability to do so by situations or conditions
29 such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or
30 alcohol to the extent that the parent or other person responsible for the child's welfare loses his or
31 her ability or is unwilling to properly care for the child; or

32 (vi) Abandons or deserts the child; or

33 (vii) Sexually exploits the child in that the person allows, permits or encourages the child
34 to engage in prostitution as defined by the provisions in section ~~11-34-1~~ [11-34.1-1](#) et seq., entitled

1 ~~"Prostitution and Lewdness"~~ "Commercial Sexual Activity"; or

2 (viii) Sexually exploits the child in that the person allows, permits, encourages or
3 engages in the obscene or pornographic photographing, filming or depiction of the child in a
4 setting which taken as a whole suggests to the average person that the child is about to engage in
5 or has engaged in, any sexual act, or which depicts any such child under eighteen (18) years of
6 age, performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

7 (ix) Commits or allows to be committed any sexual offense against the child as such
8 sexual offenses are defined by the provisions of chapter 37 of title 11, entitled "Sexual Assault",
9 as amended; or

10 (x) Commits or allows to be committed against any child an act involving sexual
11 penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen
12 (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator
13 knows or has reason to know that the victim is a severely impaired person as defined by the
14 provisions of section 11-5-11, or physically helpless as defined by the provisions of section 11-
15 37-6.

16 (2) "Child" means a person under the age of eighteen (18).

17 (3) "Child protective investigator" means an employee of the department charged with
18 responsibility for investigating complaints and/or referrals of child abuse and/or neglect and
19 institutional child abuse and/or neglect.

20 (4) "Department" means department of children, youth, and families.

21 (5) "Institution" means any private or public hospital or other facility providing medical
22 and/or psychiatric diagnosis, treatment, and care.

23 (6) "Institutional child abuse and neglect" means situations of known or suspected child
24 abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster parent
25 or the employee of a public or private residential child care institution or agency; or any staff
26 person providing out-of-home care or situations where the suspected abuse or neglect occurs as a
27 result of the institution's practices, policies, or conditions.

28 (7) "Law enforcement agency" means the police department in any city or town and/or
29 the state police.

30 (8) "Mental injury" includes a state of substantially diminished psychological or
31 intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability
32 to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior,
33 including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury
34 must be clearly attributable to the unwillingness or inability of the parent or other person

1 responsible for the child's welfare to exercise a minimum degree of care toward the child.

2 (9) "Person responsible for child's welfare" means the child's parent, guardian, any
3 individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian
4 and has unsupervised access to a child, foster parent, an employee of a public or private
5 residential home or facility, or any staff person providing out-of-home care (out-of-home care
6 means child day care to include family day care, group day care, and center-based day care).
7 Provided further that an individual, eighteen (18) years of age or older, who resides in the home
8 of a parent or guardian and has unsupervised access to the child, shall not have the right to
9 consent to the removal and examination of the child for the purposes of section 40-11-6.

10 (10) "Physician" means any licensed doctor of medicine, licensed osteopathic physician,
11 and any physician, intern, or resident of an institution as defined in subdivision (5).

12 (11) "Probable cause" means facts and circumstances based upon as accurate and reliable
13 information as possible that would justify a reasonable person to suspect that a child is abused or
14 neglected. The facts and circumstances may include evidence of an injury or injuries, and the
15 statements of a person worthy of belief, even if there is no present evidence of injury.

16 (12) "Shaken baby syndrome" means a form of abusive head trauma, characterized by a
17 constellation of symptoms caused by other than accidental traumatic injury resulting from the
18 violent shaking of and/or impact upon an infant or young child's head.

19 SECTION 21. Sections 42-56-20.3 and 42-56-37 of the General Laws in Chapter 42-56
20 entitled "Corrections Department" are hereby amended to read as follows:

21 **42-56-20.3. Community correctional program for women offenders.** -- (a) Program
22 established. - In addition to the provisions of section 42-56-20.2, there shall be established within
23 the department of corrections a community correctional program for women offenders.
24 Notwithstanding any provision to the contrary, the department of corrections may contract with
25 private agencies to carry out the provisions of this section. The civil liability of these agencies
26 and their employees, acting within the scope of their employment, and carrying out the provisions
27 of this section, shall be limited in the same manner and dollar amount as if they were agencies or
28 employees of the state.

29 (b) Persons subject to this section. - Every person who is either sentenced to
30 imprisonment in the women's division of the adult correctional institutions for a term of two (2)
31 years or less or awaiting trial at the women's division of the adult correctional institutions shall be
32 eligible to serve in the community confinement program for women offenders under the
33 provisions of this section.

34 (c) Terms of community correctional program.

1 (1) The director, or his or her designee, shall refer persons eligible to serve in the
2 community correctional program to the program director of the community correctional program.
3 The program director shall be responsible for developing with each person an individualized plan,
4 which shall be designed toward providing her an opportunity for rehabilitation and restitution.
5 Each plan shall assess the need for, and provide for, employment, vocational or academic
6 education, housing, restitution, community service, or any other social service or counseling need
7 appropriate to the particular woman. Each plan shall be submitted to the director of the
8 department of corrections, or his or her designee, for approval.

9 (2) Upon approval by the director, or his or her designee, of the plan, the plan shall be
10 submitted to the sentencing judge for his or her approval. Upon the court's approval, the person
11 shall be released from the adult correctional institutions for participation in the community
12 correctional program. The supervision of persons so released shall be conducted by the director,
13 or his or her designee. The director, or his or her designee, shall have the full power and authority
14 set forth in section 42-56-20.2.

15 (d) Violations. - Any person serving in the community correctional program who is
16 found to be a violator of any of the terms and conditions imposed upon her according to her plan,
17 this section or any rules, regulations, or restrictions issued pursuant hereto shall serve the balance
18 of her sentence in a classification deemed appropriate by the director.

19 (e) Costs.

20 (1) Assessment of additional penalty for prostitution related offenses. - There shall be
21 assessed as a penalty, in addition to those provided by law, against all defendants charged under
22 ~~sections 11-34-1, 11-34-5, 11-34-5.1, and 11-34-8.1~~ section 11-34.1-1 et seq., who plead nolo
23 contendere or guilty, or who are found guilty of the commission of those crimes as follows:

24 (i) Where the offense charged is a felony, the assessment shall be in the amount of five
25 hundred dollars (\$500), or ten percent (10%) of any fine imposed on the defendant by the court,
26 whichever is greater;

27 (ii) Where the offense charged is a misdemeanor, the assessment shall be in the amount
28 of three hundred and fifty dollars (\$350), or ten percent (10%) of any fine imposed on the
29 defendant by the court, whichever is greater;

30 (iii) Costs shall be assessed whether or not the defendant is sentenced to prison.

31 (2) When there are multiple counts or multiple charges to be disposed of simultaneously,
32 the judge may, in his or her discretion, suspend the obligation of the defendant to pay on more
33 than three (3) counts or charges.

34 (3) The assessment shall be deposited as general revenues.

1 **42-56-37. Human Immunodeficiency Virus (HIV) testing.** -- (a) Every person who is
2 committed to the adult correctional institutions to answer for any criminal offense, after
3 conviction, is required to be tested for human immunodeficiency virus (HIV). No consent for this
4 test is required from the person being tested, nor is this test subject to waiver. In addition,
5 periodic testing for HIV, including testing at the time of release and when deemed appropriate by
6 a physician, is required. No consent on the part of the person being tested is required.

7 (b) All inmates shall be provided appropriate pretest and post-test counseling in
8 accordance with accepted medical standards. Inmates who develop AIDS or AIDS related
9 complex are entitled to all reasonable medical treatment available for their illness. No inmate
10 shall be punished, segregated, or denied recreation privileges solely on the basis of a positive test
11 result. However, the health care services division of the department of corrections shall, not later
12 than September 1, 1998, adopt and put into effect reasonable rules and steps to protect the
13 confidentiality of the HIV test results, in accordance with section ~~23-6-17~~ [23-6.3-8](#) and to prevent
14 persons testing positive for HIV from infecting other inmates and/or correctional staff. If any
15 person, including any member of the correctional staff at the state department of corrections, is
16 assaulted or comes into contact with bodily fluid from an inmate or detainee, a department of
17 corrections physician will incorporate accepted medical standards and determine whether the
18 incident places the exposed person at risk for HIV or any other blood borne disease. This may
19 involve drawing a serum sample on the source inmate or detainee in accordance with section ~~23-~~
20 ~~6-14~~ [23-6.3-4](#) and performing tests to determine the presence of blood borne infections such as
21 HIV or hepatitis virus. The physician will immediately inform the exposed person of the medical
22 assessment of risk, which will take into account the serostatus of the source inmate or detainee,
23 and will provide for emergency medical care, according to accepted medical standards.

24 (c) The department of corrections shall institute a comprehensive HIV education and
25 drug treatment program for inmates and staff at all of its facilities. The educational program for
26 correctional staff shall be in-service, fully reimbursable to the employee, and mandatory and shall
27 be given periodically in collaboration with the department of health. The department of
28 corrections shall make easily accessible personal protective equipment for correctional personnel
29 to be used in the event of administering cardiac or respiratory resuscitation.

30 SECTION 22. Section 44-54-1 of the General Laws in Chapter 44-54 entitled "Disabled
31 Access Credit For Small Businesses" is hereby amended to read as follows:

32 **44-54-1. Tax credit.** -- (a) A small business taxpayer that pays for or incurs expenses to
33 provide access to persons with disabilities shall be allowed a credit, to be computed against the
34 tax imposed by chapters 11 and 13 of this title. The expenses must be paid or incurred to enable

1 the small business to comply with federal or state laws protecting the rights of persons with
2 disabilities. The credit is equal to ten percent (10%) of the total amount expended in the state of
3 Rhode Island during the taxable year but in no event shall exceed the sum of one thousand dollars
4 (\$1,000) for:

- 5 (1) Removing architectural, communication, physical, or transportation barriers;
- 6 (2) Providing qualified interpreters or other effective methods of delivering aurally
7 delivered materials to persons with hearing impairments;
- 8 (3) Providing readers, tapes or other effective means of making visually delivered
9 materials available to persons with visual impairments;
- 10 (4) Providing job coaches or other effective methods of supporting workers with severe
11 impairments in competitive employment;
- 12 (5) Providing specialized transportation services to employees or customers with
13 mobility impairments;
- 14 (6) Buying or modifying equipment for persons with disabilities; and
- 15 (7) Providing similar services, modifications, material or equipment for persons with
16 disabilities;

17 (b) As used in this chapter, the following words have the following meanings:

18 (1) "Small business" is one that for the preceding year had thirty (30) or fewer full-time
19 employees, or had one million dollars (\$1,000,000) or less in gross receipts.

20 (2) "Full-time employee" is one employed at least thirty (30) hours a week for twenty
21 (20) or more calendar weeks in the ~~preceeding~~ preceding year.

22 (3) "Federal or state laws protecting the rights of persons with disabilities" includes but
23 is not limited to the: Americans with Disabilities Act of 1990, 42 U.S.C. section 12101 et. seq.;
24 Title V of the Rehabilitation Act of 1973, 29 U.S.C. section 794; Declaration of Certain
25 Constitutional Rights and Principles -- Discrimination, R.I. Const. art. 1, section 2; Civil Rights
26 of People with Disabilities, chapter 87 of title 42; Open Meeting Handicapped Accessibility for
27 persons with disabilities, section 42-46-13; Access for persons with disabilities, section 37-8-15;
28 and AIDS Discrimination Prohibited, section ~~23-6-22~~ 23-6.3-11.

29 (4) "Amount expended" means the actual sum of money spent.

30 SECTION 23. Section 46-15.3-20 of the General Laws in Chapter 46-15.3 entitled
31 "Public Drinking Water Supply System Protection" is hereby amended to read as follows:

32 **46-15.3-20. Enforcement.** -- (a) The water resources board shall forward any
33 determination of non-compliance made pursuant to sections 46-15.3-7.5; and 46-15.3-7.6 ~~and 46-~~
34 ~~15.3-15~~ to the division of public utilities and carriers. The division of public utilities and carriers

1 shall consider such determinations of non-compliance as a complaint under section 39-4-3.

2 (b) The order of the division of public utilities and carriers may be appealed pursuant to
3 section 39-5-1.

4 SECTION 24. Section 14-1-42 of the General Laws in Chapter 14-1 entitled
5 "Proceedings in Family Court" is hereby amended to read as follows:

6 **14-1-42. Modification of order of commitment -- Release, detention, or**
7 **recommitment of child.** -- (a) An order of commitment made by the court in the case of a child
8 shall be subject to modification or revocation from time to time.

9 (b) A parent, guardian, or next friend of a child or counsel for a child who has been
10 committed or assigned by the court to the custody of the department of children, youth and
11 families may at any time file with the court a verified petition, stating that the person or the
12 department has denied an application for the release of the child or has failed to act upon the
13 application within a reasonable time. If the court is of the opinion that an investigation should be
14 had, it may, upon due notice to all concerned, proceed to hear and determine the question at issue.
15 If a petition is filed, it shall be the duty of the court to determine by clear and convincing
16 evidence that there has been a change of circumstances, and where the modification or revocation
17 of the order of commitment is in the best interest of the child and the public, the court may:

18 (1) Order that the child be restored to the custody of its parent or guardian or be detained
19 in the custody of the person or the department;

20 (2) Direct the person or the department to make any other arrangements for the child's
21 care and welfare that the circumstances of the case may require; or

22 (3) A further order of commitment.

23 (c) In any case where a child has been certified and adjudicated pursuant to sections 14-
24 1-7.2 and 14-1-7.3, and sentenced pursuant to section ~~14-17.3(a)(2)~~ 14-1-7.3(a)(2), the court shall
25 schedule a review of the child's case thirty (30) days prior to the child's eighteenth birthday or
26 thirty (30) days prior to the one-year anniversary of the imposition of the sentence, whichever is
27 greater. It shall be the responsibility of the attorney general or of the law enforcement agency
28 making the arrest to notify the victim or victims of the crime for which the juvenile was certified
29 and adjudicated of the pendency of the hearing and afford them the opportunity to be heard. The
30 court shall not hear or determine any other motion for modification of the order of certification,
31 except as provided for in this section. At that time and upon proof by clear and convincing
32 evidence that demonstrates that the person has made sufficient efforts at rehabilitation and that
33 the modification of the order of certification would not pose a threat to the safety of the public,
34 the court may suspend, but shall not vacate, the balance of the sentence.

1 (d) In the event that the court, after a hearing, determines that it has not been
2 demonstrated by clear and convincing evidence that the person has made sufficient efforts at
3 rehabilitation and that the modification of the order of certification entered pursuant to section 14-
4 1-7.3(a)(2) would pose a threat to the safety of the public, the court shall order either:

5 (1) That the person be remanded to the training school for youth until further hearing to
6 be held no later than one year thereafter in accordance with subsection (c) of this section; or

7 (2) That the jurisdiction of the sentence be transferred to the department of corrections
8 and that the balance of the sentence be served in facilities under the control of the department.

9 (3) In any case where a child has been certified and adjudicated pursuant to section ~~14-~~
10 ~~17.3(a)(2)~~ 14-1-7.3(a)(2), upon motion by the attorney general and/or the department of children,
11 youth and families, the court shall conduct a hearing to consider modification of the order of
12 certification if the family court determines that the individual poses a serious threat to the safety
13 of the public, other residents at the training school and/or training school staff. Upon that finding
14 the court may order that the jurisdiction of the sentence be transferred to the department of
15 corrections and that the balance of the sentence be served in facilities under the control of the
16 department.

17 SECTION 25. Sections 31-1-3 and 31-1-5 of the General Laws in Chapter 31-1 entitled
18 "Definitions and General Code Provisions" are hereby amended to read as follows:

19 **31-1-3. Types of vehicles.** -- (a) (1) "Antique motor car" means any motor vehicle which
20 is more than twenty-five (25) years old. Unless fully inspected and meeting inspection
21 requirements, the vehicle may be maintained solely for use in exhibitions, club activities, parades,
22 and other functions of public interest and may not be used primarily for the transportation of
23 passengers or goods over any public highway;

24 (2) After the vehicle has met the requirements of state inspection, a registration plate
25 may be issued to it on payment of the standard fee. The vehicle may be operated on the highways
26 of this and other states, and may in addition to the registration plate retain the designation
27 "antique" and display an "antique plate".

28 (b) (1) "Antique motorcycle" means any motorcycle which is more than twenty-five (25)
29 years old. Unless fully inspected and meeting inspection requirements, the vehicle shall be
30 maintained solely for use in exhibitions, club activities, parades, and other functions of public
31 interest and may not be used primarily for the transportation of passengers or goods over any
32 public highway;

33 (2) After the vehicle has met the requirements of state inspection, a registration plate
34 may be issued to it on payment of the standard fee, and the vehicle may be operated on the

1 highways of this and other states, and may in addition to the registration plate retain the
2 designation "antique" and display an "antique plate".

3 (c) "Authorized emergency vehicle" means vehicles of the fire department (fire patrol),
4 police vehicles, vehicles used by Rhode Island state marshals in the department of corrections,
5 vehicles used by the state bomb squad within the division of state fire marshal, vehicles of
6 municipal departments or public service corporations designated or authorized by the
7 administrator as ambulances and emergency vehicles; and privately owned motor vehicles of
8 volunteer firefighters or privately owned motor vehicles of volunteer ambulance drivers or
9 attendants, as authorized by the department chief or commander and permitted by the Rhode
10 Island association of fire chiefs and Rhode Island association of police chiefs joint committee for
11 volunteer warning light permits.

12 (d) "Automobile" means, for registration purposes, every motor vehicle carrying
13 passengers other than for hire.

14 (e) "Bicycle" means every vehicle having two (2) tandem wheels, except scooters and
15 similar devices, propelled exclusively by human power, and upon which a person may ride.

16 (f) "Camping recreational vehicle" means a vehicular type camping unit, certified by the
17 manufacturer as complying with ANSI A119.2 Standards designed primarily as temporary living
18 quarters for recreation that has either its own motive power or is mounted on or towed by another
19 vehicle. The basic units are tent trailers, fifth-wheel trailers, motorized campers, travel trailers,
20 and pick-up campers.

21 ~~(g)~~ (g) "Electric motorized bicycles" means a motorized bicycle which may be propelled
22 by human power or electric motor power, or by both, with an electric motor rated not more than
23 two (2) (S.A.E.) horsepower, which is capable of a maximum speed of not more than twenty-five
24 (25) miles per hour.

25 ~~(h)~~ (h) "Electric personal assistive mobility device" ("EPAMD") is a self-balancing two
26 (2) non-tandem wheeled device, designed to transport only one person, with an electric
27 propulsion system which limits the maximum speed of the device to fifteen (15) miles per hour.

28 ~~(i)~~ (i) "Hearse" means every motor vehicle used for transporting human corpses. A
29 hearse shall be considered an automobile for registration purposes.

30 (j) Fifth-wheel trailer: A towable recreational vehicle, not exceeding four hundred (400)
31 square feet in area, designed to be towed by a motorized vehicle that contains a towing
32 mechanism that is mounted above or forward of the tow vehicle's rear axle and which is eligible
33 to be registered for highway use.

34 ~~(k)~~ (k) "Hearse" means every motor vehicle used for transporting human corpses. A

1 hearse shall be considered an automobile for registration purposes.

2 ~~(h)~~ (l) "Jitney or bus" means: (1) a "public bus" which includes every motor vehicle,
3 trailer, semi-trailer, tractor trailer, or tractor trailer combination, used for the transportation of
4 passengers for hire, and operated wholly or in part upon any street or highway as a means of
5 transportation similar to that afforded by a street railway company, by indiscriminately receiving
6 or discharging passengers, or running on a regular route or over any portion of one, or between
7 fixed termini; or (2) a "private bus" which includes every motor vehicle other than a public bus or
8 passenger van designed for carrying more than ten (10) passengers and used for the transportation
9 of persons, and every motor vehicle other than a taxicab designed and used for the transportation
10 of persons for compensation.

11 ~~(h)~~ (m) "Motorcycle" means only those motor vehicles having not more than three (3)
12 wheels in contact with the ground and a saddle on which the driver sits astride, except bicycles
13 with helper motors as defined in subsection ~~(h)~~ (o) of this section.

14 ~~(h)~~ (n) "Motor-driven cycle" means every motorcycle, including every motor scooter,
15 with a motor of no greater than five (5) horsepower, except bicycles with helper motors as
16 defined in subsection ~~(h)~~ (o) of this section.

17 ~~(h)~~ (o) "Motorized bicycles" means two (2) wheel vehicles which may be propelled by
18 human power or helper power, or by both, with a motor rated not more than four and nine-tenths
19 (4.9) horsepower and not greater than fifty (50) cubic centimeters, which are capable of a
20 maximum speed of not more than thirty (30) miles per hour.

21 (p) Motorized camper: A camping recreational vehicle, built on or permanently attached
22 to a self-propelled motor vehicle chassis cab or van that is an integral part of the completed
23 vehicle.

24 ~~(h)~~ (q) "Motorized tricycles" means tricycles which may be propelled by human power
25 or helper motor, or by both, with a motor rated no more than 1.5 brake horsepower which is
26 capable of a maximum speed of not more than thirty (30) miles per hour.

27 ~~(h)~~ (r) "Motorized wheelchair" means any self-propelled vehicle, designed for and used
28 by a person with a disability, that is incapable of speed in excess of eight (8) miles per hour.

29 (s) "Motor scooter" means a motor-driven cycle with a motor rated not more than four
30 and nine-tenths (4.9) horsepower and not greater than fifty (50) cubic centimeters, which is
31 capable of a maximum speed of not more than thirty (30) miles per hour.

32 ~~(h)~~ (t) "Motor vehicle" means every vehicle which is self-propelled or propelled by
33 electric power obtained from overhead trolley wires, but not operated upon rails, except vehicles
34 moved exclusively by human power, an EPAMD and electric motorized bicycles as defined in

1 subsection ~~(f)~~ (g) of this section, and motorized wheelchairs.

2 ~~(p)~~ (u) "Motor vehicle for hire" means every motor vehicle other than jitneys, public
3 buses, hearses, and motor vehicles used chiefly in connection with the conduct of funerals, to
4 transport persons for compensation in any form, or motor vehicles rented for transporting persons
5 either with or without furnishing an operator.

6 (v) Park trailer: A camping recreational vehicle that is eligible to be registered for
7 highway use and meets the following criteria: (1) built on a single chassis mounted on wheels;
8 and (2) certified by the manufacturer as complying with ANSI A119.5.

9 ~~(q)~~ (w) "Passenger van" means every motor vehicle capable of carrying ten (10) to
10 fourteen (14) passengers plus an operator and used for personal use or on a not-for-hire basis.
11 Passenger vans may be used for vanpools, transporting passengers to and from work locations,
12 provided that the operator receives no remuneration other than free use of the vehicle.

13 ~~(r)~~ (x) "Pedal carriages" (also known as "quadricycles") means a nonmotorized bicycle
14 with four (4) or more wheels operated by one or more persons for the purpose of, or capable of,
15 transporting additional passengers in seats or on a platform made a part of or otherwise attached
16 to the pedal carriage. The term shall not include a bicycle with trainer or beginner wheels affixed
17 to it, nor shall it include a wheelchair or other vehicle with the purpose of operation by or for the
18 transportation of a handicapped person, nor shall it include a tricycle built for a child or an adult
19 with a seat for only one operator and no passenger.

20 (y) Pick-up camper: A camping recreational vehicle consisting of a roof, floor, and sides
21 designed to be loaded onto and unloaded from the back of a pick-up truck.

22 ~~(s)~~ (z) "Rickshaws" (also known as "pedi cabs") means a nonmotorized bicycle with
23 three (3) wheels operated by one person for the purpose of, or capable of, transporting additional
24 passengers in seats or on a platform made a part of or otherwise attached to the rickshaw. This
25 definition shall not include a bicycle built for two (2) where the operators are seated one behind
26 the other, nor shall it include the operation of a bicycle with trainer or beginner wheels affixed
27 thereto, nor shall it include a wheelchair or other vehicle with the purpose of operation by or for
28 the transportation of a handicapped person.

29 ~~(t)~~ (aa) "School bus" means every motor vehicle owned by a public or governmental
30 agency, when operated for the transportation of children to or from school; or privately owned,
31 when operated for compensation for the transportation of children to or from school.

32 ~~(u)~~ (bb) "Suburban vehicle" means every motor vehicle with a convertible or
33 interchangeable body or with removable seats, usable for both passenger and delivery purposes,
34 and including motor vehicles commonly known as station or depot wagons or any vehicle into

1 which access can be gained through the rear by means of a hatch or trunk and where the rear seats
2 can be folded down to permit the carrying of articles as well as passengers.

3 (cc) Tent trailer: A towable recreational vehicle that is mounted on wheels and
4 constructed with collapsible partial side walls that fold for towing by another vehicle and unfold
5 for use and which is eligible to be registered for highway use.

6 ~~(v)~~ (dd) "Trackless trolley coach" means every motor vehicle which is propelled by
7 electric power obtained from overhead trolley wires, but not operated on rails.

8 (ee) Travel trailer: A towable recreational vehicle, not exceeding three hundred twenty
9 (320) square feet in area, designed to be towed by a motorized vehicle containing a towing
10 mechanism that is mounted behind the tow vehicle's bumper and which is eligible to be registered
11 for highway use.

12 ~~(w) "Camping recreational vehicle" means a vehicular type camping unit, certified by the~~
13 ~~manufacturer as complying with ANSI A119.2 Standards designed primarily as temporary living~~
14 ~~quarters for recreation that has either its own motive power or is mounted on or towed by another~~
15 ~~vehicle. The basic units are tent trailers, fifth wheel trailers, motorized campers, travel trailers,~~
16 ~~and pick up campers.~~

17 ~~(x)~~ (ff) "Vehicle" means every device in, upon, or by which any person or property is or
18 may be transported or drawn upon a highway, except devices used exclusively upon stationary
19 rails or tracks.

20 ~~(y) Tent trailer: A towable recreational vehicle that is mounted on wheels and~~
21 ~~constructed with collapsible partial side walls that fold for towing by another vehicle and unfold~~
22 ~~for use and which is eligible to be registered for highway use.~~

23 ~~(z) Fifth wheel trailer: A towable recreational vehicle, not exceeding four hundred (400)~~
24 ~~square feet in area, designed to be towed by a motorized vehicle that contains a towing~~
25 ~~mechanism that is mounted above or forward of the tow vehicle's rear axle and which is eligible~~
26 ~~to be registered for highway use.~~

27 ~~(aa) Motorized camper: A camping recreational vehicle, built on or permanently attached~~
28 ~~to a self-propelled motor vehicle chassis cab or van that is an integral part of the completed~~
29 ~~vehicle.~~

30 ~~(bb) Travel trailer: A towable recreational vehicle, not exceeding three hundred twenty~~
31 ~~(320) square feet in area, designed to be towed by a motorized vehicle containing a towing~~
32 ~~mechanism that is mounted behind the tow vehicle's bumper and which is eligible to be registered~~
33 ~~for highway use.~~

34 ~~(cc) Pick up camper: A camping recreational vehicle consisting of a roof, floor, and~~

1 ~~sides designed to be loaded onto and unloaded from the back of a pick up truck.~~

2 ~~(dd) Park trailer: A camping recreational vehicle that is eligible to be registered for~~
3 ~~highway use and meets the following criteria: (i) built on a single chassis mounted on wheels; and~~
4 ~~(ii) certified by the manufacturer as complying with ANSI A119.5.~~

5 ~~(ee) "Motor scooter" means a motor driven cycle with a motor rated not more than four~~
6 ~~and nine tenths (4.9) horsepower and not greater than fifty (50) cubic centimeters, which is~~
7 ~~capable of a maximum speed of not more than thirty (30) miles per hour.~~

8 **31-1-5. Trailers.** -- (a) "Pole trailer" means every vehicle without motive power designed
9 to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or
10 by being boomed or secured to the towing vehicle, and ordinarily used for transporting long or
11 irregularly shaped loads such as poles, pipes, or structural members capable, generally, of
12 sustaining themselves as beams between the supporting connections.

13 (b) "Semi-trailer" means every vehicle with or without motive power, other than a pole
14 trailer, designed for carrying persons or property and for being drawn by a motor vehicle,
15 constructed so that some of its weight and that of its load rests upon or is carried by another
16 vehicle.

17 ~~(c) "Trailer" means every vehicle without motive power, other than a pole trailer,~~
18 ~~designed for carrying persons or property and for being drawn by a motor vehicle, constructed so~~
19 ~~that none of its weight rests upon the towing vehicle.~~

20 ~~(d)~~ (c) "Tractor-semi-trailer combination" means every combination of a tractor and a
21 semi-trailer properly attached to the tractor to form an articulated vehicle.

22 ~~(e)~~ (d) "Tractor-trailer combination" means every combination of a tractor and a trailer,
23 properly attached to the tractor to form an articulated vehicle.

24 (e) "Trailer" means every vehicle without motive power, other than a pole trailer,
25 designed for carrying persons or property and for being drawn by a motor vehicle, constructed so
26 that none of its weight rests upon the towing vehicle.

27 SECTION 26. Section 31-3-7 of the General Laws in Chapter 31-3 entitled "Registration
28 of Vehicles" is hereby amended to read as follows:

29 **31-3-7. Registration -- Indexing of records.** -- The division of motor vehicles shall file
30 each application received and when satisfied as to its genuineness and regularity, and that the
31 applicant is entitled to register the vehicle, shall register the vehicle and keep a record of it in
32 suitable books or on index cards as follows:

33 ~~(a)~~ (1) Under a distinctive regulation number assigned to the vehicle;

34 ~~(b)~~ (2) Alphabetically, under the name of the owner;

1 ~~(e)~~ (3) Under the motor number if available, otherwise any other identifying number of
2 the vehicle; and

3 ~~(d)~~ (4) In the discretion of the division of motor vehicles, in any other manner it may
4 deem desirable.

5 SECTION 27. Section 31-3.1-37 of the General Laws in Chapter 31-3.1 entitled
6 "Certificates of Title and Security Interests" is hereby amended to read as follows:

7 **31-3.1-37. Passage of title upon death of owner.** -- Unless otherwise provided in the
8 last will and testament of a decedent, any motor vehicle(s) owned by the decedent shall belong,
9 and title to them shall pass, to the surviving spouse.

10 ~~(a)~~ (1) The administrator of the division of motor vehicles shall register the motor
11 vehicle(s) in the name of the surviving spouse upon presentation to the division of motor vehicles
12 of:

13 ~~(+)~~ (i) A certified copy of the death certificate of the deceased spouse;

14 ~~(2)~~ (ii) Registration(s) of the motor vehicle(s) of the deceased spouse.

15 ~~(b)~~ (2) No fee shall be charged to the surviving spouse for issuance of a new certificate
16 of title.

17 ~~(e)~~ (3) A surviving spouse shall not be charged a registration fee during the year he or
18 she is registering the vehicle(s) in his or her name and having a new certificate of title issued,

19 ~~(+)~~ (i) Where the deceased spouse registered that motor vehicle(s) with the division of
20 motor vehicles; and

21 ~~(2)~~ (ii) Paid the registration fees provided in section 31-6-1 for the motor vehicle(s) for
22 the year.

23 ~~(d)~~ (4) Where the deceased spouse did not register the motor vehicle(s) or failed to pay a
24 registration fee pursuant to section 31-6-1 for the year in which the surviving spouse appears to
25 register the motor vehicle(s) and have a new title certificate issued in his or her name, then the
26 surviving spouse shall pay a pro rata amount of the annual registration fee for the remaining
27 months of the year.

28 SECTION 28. Sections 31-10-6.2 and 31-10-34.5 of the General Laws in Chapter 31-10
29 entitled "Operators' and Chauffeurs' Licenses" are hereby amended to read as follows:

30 **31-10-6.2. Out-of-state exceptions.** -- ~~(a)~~ A nonresident who is at least seventeen (17)
31 years old but less than eighteen (18) years old, who has an unrestricted drivers license issued by
32 that state, and who becomes a resident of this state may apply for and obtain within thirty (30)
33 days of establishing residency one of the following:

34 (1) Temporary permit. - If the person has not completed a drivers education course that

1 meets the requirements of the department of education but is currently enrolled in a drivers
2 education course that meets these requirements. A temporary permit is valid for the period
3 specified in the permit and authorizes the holder of the permit to drive a specified type or class of
4 motor vehicle when in possession of the permit, subject to any restrictions imposed by the
5 division of motor vehicles concerning time of driving, supervision, and passenger limitations. The
6 period must end within ten (10) days after the expected completion date of the drivers education
7 course in which the applicant is enrolled.

8 (2) Full operator's license. - If the person has completed a drivers education course that
9 meets the requirements of the department of elementary and secondary education; has held the
10 license issued by the other state for at least twelve (12) months; and has not been convicted
11 during the preceding six (6) months of a motor vehicle moving violation, a seat belt infraction, or
12 an offense committed in another jurisdiction that would be a motor vehicle moving violation or
13 seat belt infraction if committed in this state.

14 (3) Limited provisional license. - If the person has completed a drivers education course
15 that meets the requirements of the department of elementary and secondary education but either
16 did not hold the license issued by the other state for at least twelve (12) months; or was convicted
17 during the preceding six (6) months of a motor vehicle moving violation, a seat belt infraction or
18 an offense committed in another jurisdiction that would be a motor vehicle moving violation or
19 seat belt infraction if committed in this state.

20 **31-10-34.5. Transfer of functions to administrator of division of motor vehicles. --**
21 ~~Upon the effective date of this act~~ On [May 4, 2005] all functions, services performed,
22 responsibilities and duties formerly of the drivers' training school licensing board are hereby
23 transferred to the administrator of the division of motor vehicles.

24 SECTION 29. Section 31-21.1-5 of the General Laws in Chapter 31-21.1 entitled "Traffic
25 Stops Statistics" is hereby amended to read as follows:

26 **31-21.1-5. Adoption of written policies.** - (a) Not later than ninety (90) days after
27 January 1, 2004, each police department and the state police shall adopt written policies which
28 shall prohibit the use of racial profiling as the sole reason for stopping or searching motorists for
29 routine traffic stops.

30 (b) Copies of the policies adopted pursuant to this section shall be submitted to the
31 attorney general and the committee, and shall be public records.

32 SECTION 30. Section 31-41.1-1 of the General Laws in Chapter 31-41.1 entitled
33 "Adjudication of Traffic Offenses" is hereby amended to read as follows:

34 **31-41.1-1. Form of summons.** - (a) The summons and complaint to be issued to an

1 offending operator shall contain any information, and be in any form that may be required by the
2 rules of procedure promulgated by the chief magistrate of the traffic tribunal. Every summons
3 shall provide notice of:

4 ~~(i)~~ (1) The charge or charges against the operator; and

5 ~~(ii)~~ (2) A date to appear in the traffic tribunal and answer the charges against him or her.

6 (b) The form for the summons and complaint authorized by this section shall be used for
7 all violations specified in sections 8-8.2-2, 8-18-3 and 8-18-9. The summons may be the same as
8 the summons provided for in section 31-27-12. The chief executive officer of each local police
9 force which is required to use the summons and complaint provided for in this chapter shall
10 prepare or cause to be prepared any records and reports that may be prescribed by the rules of the
11 traffic tribunal.

12 SECTION 31. Sections 31-41.2-3, 31-41.2-4 and 31-41.2-9 of the General Laws in
13 Chapter 31-41.2 entitled "Automated Traffic Violation Monitoring Systems" are hereby amended
14 to read as follows:

15 **31-41.2-3. Automated traffic violation monitoring systems.** – (a) The state department
16 of transportation and the municipalities of this state are hereby authorized to install and operate
17 automated traffic violation detection systems. Such systems shall be limited to systems which
18 monitor and detect violations of traffic control signals. For purposes of this chapter an automated
19 traffic violation detection system means a system with one or more motor vehicle sensors which
20 produces images of motor vehicles being operated in violation of traffic signal laws.

21 (b) No automated traffic violation detection system shall be installed pursuant to this
22 section which has not been approved for use by the director of the state department of
23 transportation. The director of the state department of transportation shall promulgate regulations
24 for the approval and operation of said systems pursuant to the administrative procedures act,
25 chapter 35 of title 42. Systems shall be approved if the director is satisfied they meet standards of
26 efficiency and accuracy. All systems installed for use under this chapter must be able to record
27 the image of the vehicle and the license plates of the vehicle.

28 (c) In the event that the system is to be installed other than by the state department of
29 transportation on state-maintained streets or roads, the director of the department of transportation
30 must approve such installation.

31 (d) The state department of transportation and/or the municipalities may enter into an
32 agreement with a private corporation or other entity to provide automated traffic violation
33 detection systems or equipment and to maintain such systems.

34 (e) Compensation to a private entity that provides traffic signal monitoring devices shall

1 be based on the value of such equipment and related support services, and shall not be based on
2 the revenue generated by such systems.

3 **31-41.2-4. Procedure -- Notice.** -- (a) Except as expressly provided in this chapter, all
4 prosecutions based on evidence produced by an automated traffic violation detection system shall
5 follow the procedures established in chapter 41.1 of this title, chapter 8-18 of these general laws
6 and the rules promulgated by the chief magistrate of the traffic tribunal for the hearing of civil
7 traffic violations. Citations may be issued by an officer solely based on evidence obtained by use
8 of an automated traffic violation detection system. All citations issued based on evidence
9 obtained from an automated traffic violation detection system shall be issued within fourteen (14)
10 days of the violation.

11 (b) It shall be sufficient to commence a prosecution based on evidence obtained from an
12 automated traffic violation detection system that a copy of the citation and supporting
13 documentation be mailed to the address of the registered owner kept on file by the registry of
14 motor vehicles pursuant to section 31-3-34 of these general laws. For purposes of this section, the
15 date of issuance shall be the date of mailing.

16 (c) The officer issuing the citation shall certify under penalties of perjury that the
17 evidence obtained from the automated traffic violation detection system was sufficient to
18 demonstrate a violation of the motor vehicle code. Such certification shall be sufficient in all
19 prosecutions pursuant to this chapter to justify the entry of a default judgment upon sufficient
20 proof of actual notice in all cases where the citation is not answered within the time period
21 permitted.

22 (d) The citation shall contain all the information provided for on the uniform summons
23 as referred to in section 31-41.1-1 of the general laws and the rules of procedure promulgated by
24 the chief magistrate of the traffic tribunal subject to the approval of the supreme court pursuant to
25 section 8-6-2.

26 (e) In addition to the information in the uniform summons, the following information
27 shall be attached to the citation:

28 ~~(i)~~ (1) Copies of two (2) or more photographs, or microphotographs, or other recorded
29 images taken as proof of the violation; and

30 ~~(ii)~~ (2) A signed statement by a trained law enforcement officer that, based on inspection
31 of recorded images, the motor vehicle was being operated in violation of section 31-13-4 of this
32 subtitle; and

33 ~~(iii)~~ (3) A statement that recorded images are evidence of a violation of this chapter; and

34 ~~(iv)~~ (4) A statement that the person who receives a summons under this chapter may

1 either pay the civil penalty in accordance with the provisions of section 31-41.1-3, or elect to
2 stand trial for the alleged violation.

3 **31-41.2-9. Reports.** -- ~~(a)~~ The agency or municipality authorizing the installation of
4 automated traffic signal detection systems shall prepare an annual report containing data on:

5 (1) ~~the~~ The number of citations issued at each particular intersection;

6 (2) ~~the~~ The number of those violations paid by mail;

7 (3) ~~the~~ The number of those violations found after trial or hearing;

8 (4) ~~the~~ The number of violations dismissed after trial or hearing;

9 (5) ~~the~~ The number of accidents at each intersection;

10 (6) ~~a~~ A description as to the type of accident;

11 (7) ~~an~~ An indication regarding whether there were any injuries involved in any accident
12 reported;

13 (8) ~~the~~ The cost to maintain the automated traffic signal detection system; and

14 (9) ~~the~~ The amount of revenue obtained from the automated traffic signal detection
15 system.

16 SECTION 32. Sections 31-47.3-2 and 31-47.3-3 of the General Laws in Chapter 31-47.3
17 entitled "The Diesel Emissions Reduction Act" are hereby amended to read as follows:

18 **31-47.3-2. Definitions.** -- When used in this chapter:

19 (1) "Best available retrofit technology" means technology, verified by the United States
20 Environmental Protection Agency or California Air Resources Board (CARB) for achieving
21 reductions in particulate matter emissions at the highest classification level for diesel emission
22 control strategies that is applicable to the particular engine and application. Such technology shall
23 not result in a net increase in nitrogen oxides.

24 (2) "Closed crankcase ventilation system (CCV)" means a system that separates oil and
25 other contaminant from the blow-by gases and routes the blow-by gases into a diesel engine's
26 intake system downstream of air filter.

27 ~~(2) "Heavy duty vehicle" or "vehicle" means any on-road or nonroad vehicle powered by~~
28 ~~diesel fuel and having a gross vehicle weight of greater than fourteen thousand (14,000) pounds.~~

29 (3) "Director" refers to the director of the department of environmental management
30 (DEM).

31 (4) "Full-sized school bus" means a school bus, as defined in Rhode Island general law
32 section 31-1-3, which is a type 1 diesel school bus, including spare buses operated by or under
33 contract to a school district, but not including emergency contingency vehicles or low usage
34 vehicles.

1 (5) "Heavy duty vehicle" or "vehicle" means any on-road or nonroad vehicle powered by
2 diesel fuel and having a gross vehicle weight of greater than fourteen thousand (14,000) pounds.

3 ~~(4)~~ (6) "Level 1 control" means a verified diesel emission control device that achieves a
4 particulate matter (PM) reduction of twenty-five percent (25%) or more compared to uncontrolled
5 engine emissions levels.

6 ~~(5)~~ (7) "Level 2 control" means a verified diesel emission control device that achieves a
7 particulate matter (PM) emission reduction of fifty percent (50%) or more compared to
8 uncontrolled engine emission levels.

9 ~~(6)~~ (8) "Level 3 control" means a verified diesel emission control device that achieves a
10 particulate matter (PM) emission reduction of eighty-five percent (85%) or more compared to
11 uncontrolled engine emission levels, or that reduces emissions to less than or equal to one one-
12 hundredth (0.01) grams of (PM) per brake horsepower-hour. Level 3 control includes repowering
13 or replacing the existing diesel engine with an engine meeting US EPA's 2007 Heavy-duty
14 Highway Diesel Standards, or in the case of a nonroad engine, an engine meeting the US EPA's
15 Tier 4 Nonroad Diesel Standards.

16 ~~(7) "Closed crankcase ventilation system (CCV)" means a system that separates oil and~~
17 ~~other contaminant from the blow-by gases and routes the blow-by gases into a diesel engine's~~
18 ~~intake system downstream of air filter.~~

19 ~~(8) "Full sized school bus" means a school bus, as defined in (Rhode Island general law)~~
20 ~~section (31-1-3), which is a type 1 diesel school bus, including spare buses operated by or under~~
21 ~~contract to a school district, but not including emergency contingency vehicles or low usage~~
22 ~~vehicles.~~

23 (9) "Model year 2007 emission standards" means engine standards promulgated by the
24 federal Environmental Protection Agency in 40 CFR Parts 69, 80 and 86.

25 (10) "Verified emissions control device" means a device that has been verified by the
26 federal Environmental Protection Agency or the California Air Resources Board to reduce
27 particulate matter emissions by a given amount.

28 **31-47.3-3. Reducing emissions from school buses.** - (a) Purpose. - To reduce health
29 risks from diesel particulate matter (DPM) to Rhode Island school children by significantly
30 reducing tailpipe emissions from school buses, and preventing engine emissions from entering the
31 passenger cabin of the buses.

32 (b) Requirements for Rhode Island school buses:

33 ~~(i)~~ (1) By September 1, 2010, no full-size school bus with an engine model year 1993 or
34 older may be used to transport school children in Rhode Island; and,

1 ~~(ii)~~ (2) Providing there is sufficient federal or state monies, by September 1, 2010, all
2 full-sized school buses transporting children in Rhode Island must be retrofitted with a closed
3 crankcase ventilation system and either: ~~(A)~~ (i) be equipped with a level 1, level 2, or level 3
4 device verified by the US Environmental Protection Agency or the California Air Resources
5 Board; or ~~(B)~~ (ii) be equipped with an engine of model year 2007 or newer; or ~~(C)~~ (iii) achieve
6 the same or higher diesel PM reductions through the use of an alternative fuel such as compressed
7 natural gas verified by CARB/EPA to reduce DPM emissions at a level equivalent to or higher
8 than subsection ~~(B)~~ (ii) above.

9 (c) Financial assistance to defray costs of pollution reductions called for in (b)~~(ii)~~(2):

10 ~~(i)~~ (1) DEM shall work with the Rhode Island department of transportation or other
11 authorized transit agencies to maximize the allocation of federal congestion mitigation and air
12 quality (CMAQ) money for Rhode Island for diesel emissions reductions in federal FY 2008 and
13 thereafter until the retrofit goals in this act are met. The (CMAQ) program is jointly administered
14 by the federal highway administration (FHWA) and the federal transit administration (FTA), and
15 was reauthorized by congress in 2005 under the safe, accountable, flexible, and efficient
16 transportation equity act: A legacy for users (SAFETEA-LU). The (SAFETEA-LU) requires
17 states and MPOs to give priority in distributing CMAQ funds to diesel engine retrofits, and other
18 cost-effective emission reduction and congestion mitigation activities that benefit air quality.

19 ~~(ii)~~ (2) Drawing upon any available federal or state monies, the director shall establish
20 and implement a system of providing incentives consistent with this section to municipalities,
21 vendors, or school bus owners for the purchase and installation of any CARB/EPA-verified
22 emission control retrofit device together with the purchase and installation of closed crankcase
23 ventilation system (CCV) retrofit device. In 2007, the per-unit incentive shall not exceed one
24 thousand two hundred fifty dollars (\$1,250) for a level 1 device plus a CCV, or two thousand five
25 hundred dollars (\$2,500) for a level 2 device plus a CCV, or for model years 2003-2006 five
26 thousand dollars (\$5,000) for a level 3 device plus a CCV. Incentive levels may be reevaluated
27 annually, with the goal of maintaining competition in the market for retrofit devices. To the
28 extent practicable, in kind services will also be utilized to offset some of the costs. Incentive
29 recipients must also certify that newly purchased or retrofitted buses with a level 3 technology
30 will operate in the state of Rhode Island for a minimum of four (4) years.

31 (d) Priority community provision:

32 ~~(i)~~ (1) When penalty funds, state SEP funds, federal funds, or funds from other state or
33 non- state sources become available, these should first be allocated toward further offsetting costs
34 of achieving "best available" emissions control in "priority communities";

1 ~~(ii)~~ (2) The "best available" standard is attained by all new buses (MY2007 and newer)
2 and by diesel buses model year 2003 to 2006, inclusive that has been retrofitted with level 3-
3 verified diesel particulate filters and closed crankcase ventilation systems, by diesel buses model
4 year 1994 to 2002, inclusive that has been retrofitted with at least level 2-verified diesel
5 particulate filters and closed crankcase ventilation systems or could be achieved with a natural
6 gas bus that achieves the same or better standards of cleanliness as a 2007 diesel bus standard;
7 and

8 ~~(ii)~~ (3) "Priority communities" (to be identified by the Rhode Island DEM) are Rhode
9 Island communities that have high levels of ambient air pollution and high incidence of childhood
10 respiratory impacts.

11 (e) To achieve the pressing public health and environmental goals of this act, DEM shall
12 identify opportunities to achieve maximize PM reductions from diesel powered heavy duty
13 vehicle or equipment that is owned by, operated by, or on behalf of, or leased by, or operating
14 under a contract to a state agency or state or regional public authority (except vehicles that are
15 specifically equipped for emergency response) and diesel powered waste collection and recycling
16 vehicles that are owned, leased, or contracted to perform the removal or transfer or municipal,
17 commercial or residential waste, or recycling services. No later than January 1, 2008, DEM shall
18 present a report to the general assembly, governor, house committee on environment and natural
19 resources, and the senate committee on environment and agriculture on such opportunities to
20 maximum PM reductions from the aforementioned fleets including legislative changes, regulatory
21 changes, funding sources, contract requirements, procurement requirements, and other
22 mechanisms that will bring about maximum PM reductions from these two priority fleets. This
23 report shall explore funding sources beyond CMAQ, including but not limited to Diesel
24 Reductions Emissions Reduction Act (DERA) funds under the Federal Energy Act.

25 (f) Severability. - If any clause, sentence, paragraph, section or part of this act shall be
26 adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further
27 judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall
28 be confined in its operation to the clause, sentence, paragraph, section or part of this act directly
29 involved in the controversy in which the judgment shall have been rendered.

30 SECTION 33. Sections 31-51-3 and 31-51-9 of the General Laws in Chapter 31-51
31 entitled "School Bus Safety Enforcement" are hereby amended to read as follows:

32 **31-51-3. Procedure -- Notice. --** (a) Except as expressly provided in this chapter, all
33 prosecutions based on evidence produced by a live digital video school bus violation detection
34 monitoring system shall follow the procedures established in chapter 41.1 of this title, chapter 8-

1 18 of the general laws and the rules promulgated by the chief magistrate of the traffic tribunal for
2 the hearing of civil traffic violations in the traffic tribunal. Citations may be issued by an officer
3 solely based on evidence obtained by use of a live digital video school bus violation detection
4 monitoring system. All citations issued based on evidence obtained from a live digital video
5 school bus violation detection monitoring system shall be issued within seven (7) days of the
6 violation. Notwithstanding any provisions of the general laws to the contrary, exclusive
7 jurisdiction to hear and decide any violation under this chapter shall be with the traffic tribunal.

8 (b) It shall be sufficient to commence a prosecution based on evidence obtained from a
9 live digital video school bus violation detection monitoring system. A copy of the citation and
10 supporting documentation shall be mailed to the address of the registered owner kept on file by
11 the registry of motor vehicles pursuant to section 31-3-34 of the general laws. For purposes of
12 this section, the date of issuance shall be the date of mailing.

13 (c) The officer issuing the citation shall certify under penalties of perjury that the
14 evidence obtained from the live digital video school bus violation detection monitoring system
15 was sufficient to demonstrate a violation of the motor vehicle code. Such certification shall be
16 sufficient in all prosecutions pursuant to this chapter to justify the entry of a default judgment
17 upon sufficient proof of actual notice in all cases where the citation is not answered within the
18 time period permitted.

19 (d) The citation shall contain all the information provided for on the uniform summons
20 as referred to in section 31-41.1-1 of the general laws and the rules of procedure promulgated by
21 the chief magistrate of the traffic tribunal for the traffic tribunal, as well as the date, time and
22 location of the violation.

23 (e) In addition to the information in the uniform summons, the following information
24 shall be attached to the citation as evidence:

25 ~~(ii)~~ (1) Copies of two (2) or more photographs, or microphotographs, videos, or other
26 recorded images taken as proof of the violation;

27 ~~(iii)~~ (2) A signed statement by a trained law enforcement officer that, based on inspection
28 of recorded images and video, the motor vehicle was being operated in violation of section 31-20-
29 12;

30 ~~(iv)~~ (3) A statement that recorded images are evidence of a violation of this chapter; and

31 ~~(v)~~ (4) A statement that the person who receives a summons under this chapter may
32 either pay the civil penalty in accordance with the provisions of section 31-20-12, or elect to
33 stand trial for the alleged violation; and

34 ~~(vi)~~ (5) A signed affidavit by a person who witnessed live the motor vehicle being

1 operated in violation of section 31-20-12.

2 **31-51-9. Reports.** -- ~~(a)~~ The school department authorizing the installation of a live
3 digital video school bus violation detection monitoring system shall prepare an annual report
4 containing data on:

- 5 (1) The number of citations issued;
- 6 (2) The number of those violations paid;
- 7 (3) The number of those violations found after trial or hearing;
- 8 (4) The number of violations dismissed after trial or hearing;
- 9 (5) The amount of revenue obtained from the live digital video school bus violation
10 detection monitoring system.

11 SECTION 34. Sections 31-52-1, 31-52-3, 31-52-4 and 31-52-5 of the General Laws in
12 Chapter 31-52 entitled "Funeral Procession Act" are hereby amended to read as follows:

13 **31-52-1. Definitions.** -- (a) "Funeral director" and "funeral establishment" shall have the
14 same meanings set forth in chapter 5-33.2-1 of the general laws.

15 (b) "Funeral escort" means a person or entity that provides escort services for funeral
16 processions, including, but not limited to, law enforcement personnel and agencies.

17 (c) "Funeral escort vehicle" means any motor vehicle properly equipped pursuant to this
18 chapter and which escorts a funeral procession.

19 (d) "Funeral lead vehicle" means any motor vehicle, including a funeral hearse, properly
20 equipped pursuant to this chapter, leading and facilitating the movement of a funeral procession.

21 ~~(b)~~ (e) "Funeral procession" means two (2) or more vehicles accompanying the body or
22 the cremated remains of a deceased person, in the daylight hours, including a funeral lead vehicle
23 or a funeral escort vehicle.

24 ~~(c) "Funeral lead vehicle" means any motor vehicle, including a funeral hearse, properly~~
25 ~~equipped pursuant to this chapter, leading and facilitating the movement of a funeral procession.~~

26 ~~(d) "Funeral escort" means a person or entity that provides escort services for funeral~~
27 ~~processions, including, but not limited to, law enforcement personnel and agencies.~~

28 ~~(e) "Funeral escort vehicle" means any motor vehicle properly equipped pursuant to this~~
29 ~~chapter and which escorts a funeral procession.~~

30 **31-52-3. Driving in funeral procession.** -- (a) Operators of vehicles in a funeral
31 procession must exercise due care when participating in a funeral procession.

32 (b) A vehicle in a funeral procession shall follow the preceding vehicle in the funeral
33 procession as closely as is practicable and safe. Any ordinance, law, or regulation requiring that
34 motor vehicles be operated to allow sufficient space between them to enable another vehicle to

1 enter and occupy that space without danger shall not be applicable to vehicles in a funeral
2 procession.

3 (c) The operator of a motor vehicle in a funeral procession may not drive the vehicle at a
4 speed greater than:

5 ~~(1)~~ (1) Fifty-five (55) miles per hour on a highway where the posted speed limit is fifty-
6 five (55) miles per hour or more; or

7 ~~(2)~~ (2) Five (5) miles per hour below the posted speed limit on other streets or roads.

8 (d) A vehicle being operated in any funeral procession must have its headlights and tail
9 lights illuminated.

10 (e) The turn signals must be flashing simultaneously as warning lights on a vehicle that
11 is the first vehicle in a funeral procession and which the operator has reason to believe is the last
12 vehicle in the funeral procession.

13 **31-52-4. Funeral procession right-of-way.** -- (a) Except as provided in subsection (d) of
14 this section, pedestrians and operators of all vehicles shall yield the right-of-way to any vehicle
15 which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead
16 vehicle.

17 (b) Whenever the funeral escort vehicle or funeral lead vehicle in a funeral procession
18 lawfully enters an intersection, either by reason of a traffic control device or at the direction of
19 law enforcement personnel, the remaining vehicles in the funeral procession may continue to
20 follow the funeral lead vehicle through the intersection despite any traffic control devices or
21 right-of-way provisions of state or local ordinances, provided the operator of each vehicle
22 exercises reasonable care toward any other vehicle or pedestrian on the roadway.

23 (c) Except as provided in subsection (d) of this section, an operator of a funeral escort
24 vehicle may direct the operators of other vehicles in a funeral procession to proceed through an
25 intersection or to make turns or other movements despite any traffic control device. The operator
26 of a funeral escort vehicle may direct and control the operators of vehicles not in a funeral
27 procession, including those in or approaching an intersection, to stop, proceed, or make turns or
28 other movements without regard to a traffic control device. Funeral escort vehicles may exceed
29 the speed limit by fifteen (15) miles per hour when overtaking the funeral procession to direct
30 traffic at the next intersection.

31 (d) Funeral processions shall have the right-of-way at intersections regardless of traffic
32 control devices, subject to the following conditions and exceptions:

33 ~~(1)~~ (1) Operators of vehicles in a funeral procession shall yield the right-of-way to an
34 approaching emergency vehicle giving an audible or visible signal;

1 ~~(ii)~~ (2) Operators of vehicles in a funeral procession shall yield the right-of-way when
2 directed to do so by law enforcement personnel; and

3 ~~(iii)~~ (3) Operators of vehicles in a funeral procession must exercise due care when
4 participating in a funeral procession.

5 **31-52-5. Vehicles not in funeral procession.** -- The operator of a vehicle that is not part
6 of a funeral procession may not:

7 ~~(a)~~ (1) Drive between the vehicles forming a funeral procession while they are in motion
8 except when authorized to do so by law enforcement personnel or when driving an authorized
9 emergency vehicle emitting an audible or visible signal.

10 ~~(b)~~ (2) Join a funeral procession to secure the right-of-way as granted by this chapter.

11 ~~(c)~~ (3) Pass a funeral procession on a multiple lane highway on the funeral procession's
12 right side unless the funeral procession is in the farthest left lane.

13 ~~(d)~~ (4) Enter an intersection, even if the operator is facing a green traffic control signal,
14 when a funeral procession is proceeding through a red traffic control signal at the intersection as
15 permitted under this chapter, unless the operator can do so without crossing the path of the
16 funeral procession. If the red signal changes to green while the funeral procession is within the
17 intersection, the operator of the vehicle facing a green signal may proceed subject to the right-of-
18 way of a vehicle participating in a funeral procession.

19 ~~(e)~~ (5) Any person who willfully violates this section shall be guilty of a civil violation.

20 SECTION 35. Section 44-5-2 of the General Laws in Chapter 44-5 entitled "Levy and
21 Assessment of Local Taxes" is hereby amended to read as follows:

22 **44-5-2. Maximum levy.** -- (a) Through and including its fiscal year 2007, a city or town
23 may levy a tax in an amount not more than five and one-half percent (5.5%) in excess of the
24 amount levied and certified by that city or town for the prior year. Through and including its
25 fiscal year 2007, but in no fiscal year thereafter, the amount levied by a city or town is deemed to
26 be consistent with the five and one-half percent (5.5%) levy growth cap if the tax rate is not more
27 than one hundred and five and one-half percent (105.5%) of the prior year's tax rate and the
28 budget resolution or ordinance, as applicable, specifies that the tax rate is not increasing by more
29 than five and one-half percent (5.5%) except as specified in subsection (c) of this section. In all
30 years when a revaluation or update is not being implemented, a tax rate is deemed to be one
31 hundred five and one-half percent (105.5%) or less of the prior year's tax rate if the tax on a
32 parcel of real property, the value of which is unchanged for purpose of taxation, is no more than
33 one hundred five and one-half percent (105.5%) of the prior year's tax on the same parcel of real
34 property. In any year through and including fiscal year 2007 when a revaluation or update is

1 being implemented, the tax rate is deemed to be one hundred five and one-half percent (105.5%)
2 of the prior year's tax rate as certified by the division of property valuation and municipal finance
3 in the department of revenue.

4 (b) In its fiscal year 2008, a city or town may levy a tax in an amount not more than five
5 and one-quarter percent (5.25%) in excess of the total amount levied and certified by that city or
6 town for its fiscal year 2007. In its fiscal year 2009, a city or town may levy a tax in an amount
7 not more than five percent (5%) in excess of the total amount levied and certified by that city or
8 town for its fiscal year 2008. In its fiscal year 2010, a city or town may levy a tax in an amount
9 not more than four and three-quarters percent (4.75%) in excess of the total amount levied and
10 certified by that city or town in its fiscal year 2009. In its fiscal year 2011, a city or town may
11 levy a tax in an amount not more than four and one-half percent (4.5%) in excess of the total
12 amount levied and certified by that city or town in its fiscal year 2010. In its fiscal year 2012, a
13 city or town may levy a tax in an amount not more than four and one-quarter percent (4.25%) in
14 excess of the total amount levied and certified by that city or town in its fiscal year 2011. In its
15 fiscal year 2013 and in each fiscal year thereafter, a city or town may levy a tax in an amount not
16 more than four percent (4%) in excess of the total amount levied and certified by that city or town
17 for its previous fiscal year.

18 (c) The division of property valuation in the department of revenue shall monitor city
19 and town compliance with this levy cap, issue periodic reports to the general assembly on
20 compliance, and make recommendations on the continuation or modification of the levy cap on or
21 before December 31, 1987, December 31, 1990, and December 31, every third year thereafter.
22 The chief elected official in each city and town shall provide to the division of property and
23 municipal finance within thirty (30) days of final action, in the form required, the adopted tax
24 levy and rate and other pertinent information.

25 (d) The amount levied by a city or town may exceed the percentage increase as specified
26 in subsection (a) or (b) of this section if the city or town qualifies under one or more of the
27 following provisions:

28 (1) The city or town forecasts or experiences a loss in total non-property tax revenues
29 and the loss is certified by the department of revenue.

30 (2) The city or town experiences or anticipates an emergency situation, which causes or
31 will cause the levy to exceed the percentage increase as specified in subsection (a) or (b) of this
32 section. In the event of an emergency or an anticipated emergency, the city or town shall notify
33 the auditor general who shall certify the existence or anticipated existence of the emergency.
34 Without limiting the generality of the foregoing, an emergency shall be deemed to exist when the

1 city or town experiences or anticipates health insurance costs, retirement contributions or utility
2 expenditures which exceed the prior fiscal year's health insurance costs, retirement contributions
3 or utility expenditures by a percentage greater than three (3) times the percentage increase as
4 specified in subsection (a) or (b) of this section.

5 (3) A city or town forecasts or experiences debt services expenditures which exceed the
6 prior year's debt service expenditures by an amount greater than the percentage increase as
7 specified in subsection (a) or (b) of this section and which are the result of bonded debt issued in
8 a manner consistent with general law or a special act. In the event of the debt service increase, the
9 city or town shall notify the department of revenue which shall certify the debt service increase
10 above the percentage increase as specified in subsection (a) or (b) of this section the prior year's
11 debt service. No action approving or disapproving exceeding a levy cap under the provisions of
12 this section affects the requirement to pay obligations as described in subsection (d) of this
13 section.

14 (4) The city or town experiences substantial growth in its tax base as the result of major
15 new construction which necessitates either significant infrastructure or school housing
16 expenditures by the city or town or a significant increase in the need for essential municipal
17 services and such increase in expenditures or demand for services is certified by the department
18 of revenue.

19 (e) Any levy pursuant to subsection (d) of this section in excess of the percentage
20 increase specified in subsection (a) or (b) of this section shall be approved by the affirmative vote
21 of at least four-fifths (4/5) of the full membership of the governing body of the city or town or in
22 the case of a city or town having a financial town meeting, the majority of the electors present
23 and voting at the town financial meeting shall also approve the excess levy.

24 (f) Nothing contained in this section constrains the payment of present or future
25 obligations as prescribed by section 45-12-1, and all taxable property in each city or town is
26 subject to taxation without limitation as to rate or amount to pay general obligation bonds or notes
27 of the city or town except as otherwise specifically provided by law or charter.

28 SECTION 36. Section 43-2-5 of the General Laws in Chapter 43-2 entitled "Publication
29 and Distribution of Acts" is hereby amended to read as follows:

30 **43-2-5. Distribution of copies of proceedings.** -- The joint committee on legislative
31 services shall, as soon as possible after publication of the public laws, acts of a local and private
32 nature, and resolutions as provided in section 22-11-3.3, transmit bound copies to each of the
33 following officers, libraries, or societies. The copies shall be transmitted by the recipients to their
34 successors in office:

1 ~~(a)~~ (1) One copy each to the governor, lieutenant governor, justices of the supreme,
2 superior, family and district courts, general treasurer, state controller, the director of each state
3 department, administrator of the division of public utilities and carriers, tax administrator,
4 director of business regulation, the several town and city clerks, the several boards of canvassers
5 and registration, the several probate courts where the clerk of the court is other than the city or
6 town clerk, the several clerks or administrators of the supreme, superior, family and district
7 courts, reporter of opinions of the supreme court, the several sheriffs, adjutant general, state judge
8 advocate general, the division of occupational safety, the library of any accredited institution of
9 higher education in the state of Rhode Island, Redwood Library and Athenaeum, the People's
10 Library, Newport, Providence Athenaeum, Providence Public Library, Pawtucket Free Public
11 Library, any other incorporated library in the state or any library in the state receiving state aid
12 that may apply for a copy, the social law library at Boston, Massachusetts, the New York Public
13 Library, in New York, the library of the Worcester County Bar Association, Massachusetts, the
14 library of the Johns Hopkins University, Maryland, the library at Cornell University, New York,
15 the law schools at Cambridge and Boston in Massachusetts, at New York and at Albany in New
16 York, at New Haven in Connecticut, the library of the University of West Virginia, in West
17 Virginia, the bar library in Chicago, in Illinois, the library of the law school of Georgetown
18 University in Washington, D.C., the state libraries of the several states, the senate committees on
19 judiciary, finance and commerce, housing and municipal government, the house of
20 representatives committees on judiciary, finance and corporations, the legislative council and the
21 house of representatives finance committee advisory staff, each member of the general assembly,
22 the associate justice of the Supreme Court of the United States assigned to the First Circuit, each
23 district judge of the United States for the District of Rhode Island, the United States district
24 attorney for the District of Rhode Island, the United States Marshal, the referee in bankruptcy for
25 the District of Rhode Island, and the clerk of the United States District Court;~~tes assigned to the~~
26 ~~First Circuit, each district judge of the United States for the District of Rhode Island, the United~~
27 ~~States district attorney for the District of Rhode Island, the United States Marshal, the referee in~~
28 ~~bankruptcy for the District of Rhode Island, and the clerk of the United States District Court;~~

29 ~~(b)~~ (2) Four (4) copies to the Secretary of State of the United States;

30 ~~(c)~~ (3) Two (2) copies each to the state library, the state law library, the secretary of
31 state, the attorney general, the public defender, the Legal Aid Society of Rhode Island, the Rhode
32 Island Historical Society, the Newport Historical Society, and the Warden's Court at New
33 Shoreham.

34 ~~(d)~~ (4) The secretary of state shall keep two (2) copies for the use of his or her office.

1 SECTION 37. Sections 44-3-39 and 44-3-58 of the General Laws in Chapter 44-3
2 entitled "Property Subject to Taxation" are hereby amended to read as follows:

3 **44-3-39. Middletown -- Exemption of persons over the age of 65. – (a)**

4 Notwithstanding any other provisions of a general or special law to the contrary, the town council
5 of the town of Middletown is authorized to fix, by ordinance or resolution, the amount of
6 exemptions with respect to the assessed value from local taxation on taxable real property situated
7 in the town, owned and occupied by any person over the age of sixty-five (65) years, whether the
8 real property is income-producing or not.

9 (b) The exemption shall be in an amount established by the town council, including a
10 complete exemption, and under conditions specified by the town council including income and/or
11 property value limitations.

12 **44-3-58. Tax deferral of elderly persons in the town of Narragansett. – (a)** The

13 town council of the town of Narragansett may, by ordinance, provide that the payment of all or a
14 portion of the property taxes on a single family dwelling, owned by and occupied as the principal
15 residence of persons who are sixty-five (65) years or older may be partially deferred until the
16 property is disposed of by reason of death of all the qualified owners, or by reason of transfer or
17 conveyance, provided, that any deferred taxes and interest constitute a lien against the real estate.

18 (b) This act shall be voted upon by the qualified electors of the town of Narragansett
19 entitled to vote upon a proposition to impose a tax or for the expenditure of money at any special
20 or regular election held after the passage of this act. The town clerk will then certify the results to
21 the secretary of state. Any ordinance passed by the town council of Narragansett to provide tax
22 deferral pursuant to the terms of this act shall become effective upon the approval of a majority
23 of the electors voting on the question, vote to accept this section.

24 SECTION 38. Sections 44-5-11.9, 44-5-29 and 44-5-43 of the General Laws in Chapter
25 44-5 entitled "Levy and Assessment of Local Taxes" are hereby amended to read as follows:

26 **44-5-11.9. West Warwick -- Residential real estate classification. – (a)**

27 Notwithstanding any limitation, condition or any other provision to the contrary contained within
28 section 44-5-11.8, the town of West Warwick may adopt the following separate and distinct tax
29 classification tax-rates for each of the following classification:

30 ~~(a)~~ (b) Classes of Property:

31 (1) Single-family homes, condominiums, residential real estate consisting of no more
32 than two (2) dwelling units (one of which is owner occupied), land classified as open space, and
33 dwellings on leased land including mobile homes;

34 (2) Residential real estate containing between two (2), three (3), four (4), and five (5)

- 1 dwelling units, except for two (2) dwelling units, one of which is owner occupied;
- 2 (3) Residential real estate containing six (6) or more dwelling units, and properties
- 3 containing partial commercial or business uses with six (6) or more dwelling units;
- 4 (4) Commercial and industrial real estate, and residential properties containing partial
- 5 commercial or business uses, with five (5) or less dwelling units; and
- 6 (5) Two (2) separate and distinct tax classification tax-rates for personal property
- 7 described as Class 3 and Class 4 in subsection 44-5-11.8(b)(3) and (b)(4), respectively.

8 **44-5-20.29. Property tax classification -- Lincoln -- Tax levy determination.** -- (a) The

9 assessor and finance director shall provide to the town council a list containing the full and fair

10 valuation of each property class, and with the approval of the town council, annually determine

11 the percentage of the tax levy to be apportioned each class of property and shall annually apply

12 tax rates sufficient to produce the proportion of the total tax levy.

13 (b) Classes of Property.

14 (1) Class 1. - Residential real estate consisting of no more than five (5) dwelling units

15 including dwellings on leased land including mobile homes. The existing homestead exemption

16 authorized for residential properties shall continue in full force and effect.

17 (2) Class 2. - Commercial and industrial real estate, and residential real estate of more

18 than five (5) dwelling units.

19 (3) Class 3. - All ratable tangible personal property excluding motor vehicles and trailers.

20 (Notwithstanding any provisions of the contrary, the tax rates applicable to wholesale and retail

21 inventory within Class 3 are governed by section 44-3-29.1).

22 (4) [Repealed by P.L. 2004, ch. 439, section 1; P.L. 2004, ch. 527, section 1, effective

23 July 1, 2005_.

24 **44-5-43. Definitions.** -- (a) As used in this chapter, the following terms are defined as

25 follows:

26 (1) "Assessment ratio study" means the process of comparing, on a sampling basis, the

27 current market values of properties to their assessed valuations, and of applying statistical

28 procedures to determine assessment levels and to measure the nonuniformity of assessments.

29 (2) "Department" means the department of revenue.

30 (3) "Russell index of inequality" is that percentage obtained from the relation between

31 the average absolute deviation of assessment ratios and the average ratio of assessment, and

32 formulated as follows:

33 (b) Average absolute deviation of assessment ratios divided by the average assessment

34 ratio = Russell index of inequality.

1 SECTION 39. Section 44-5.1-2 of the General Laws in Chapter 44-5.1 entitled "Real
2 Estate Nonutilization Tax" is hereby amended to read as follows:

3 **44-5.1-2. Definitions.** -- The following words, terms, and phrases, when used in this
4 chapter, have the meanings ascribed to them in this section, except in those instances where the
5 context clearly indicates a different meaning:

6 (1) "Abutter" means a neighbor whose property touches the property in question.

7 (2) "Actively marketed" means good faith efforts by the owner of the property to obtain
8 one or more occupants of the property. These good faith efforts may include, without limitation,
9 one or more of the following: (i) making substantial financial expenditures in comparison with the
10 value of the property; or (ii) listing the property for sale or lease, or both, with one or more real
11 estate brokers, for a price and on terms, or for a rental that is realistic considering the fair market
12 or fair market rental value of the property; or (iii) advertising, using one or more signs on the
13 property and at least one other medium, the availability of the property for sale or rental for a
14 price and on terms, or at a rental that is realistic considering the fair market value or fair rental
15 value of the property. Sporadic attempts to sell or lease the property during the privilege year may
16 be viewed as not constituting a good faith marketing effort.

17 (3) "Continuously unoccupied" means any property, which is listed during the entire
18 privilege year as vacant in the records of a city or town's department of minimum housing.

19 (4) "Development plan" means a plan to rehabilitate a vacant and abandoned property
20 within a set time frame for a use in conformance with the city or town's comprehensive plan.

21 (5) "Nonprofit housing organization" means any organization exempt from taxation
22 pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section 501(c)(3), whose
23 exempt purposes include the provision of affordable housing to low and moderate income
24 households.

25 ~~(5)~~ (6) "Privilege year" means the twelve (12) month period corresponding to the
26 calendar year.

27 ~~(6) "Nonprofit housing organization" means any organization exempt from taxation~~
28 ~~pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section 501(c)(3), whose~~
29 ~~exempt purposes include the provision of affordable housing to low and moderate income~~
30 ~~households.~~

31 (7) "Reviewing entity" means the municipal entity designated by the city or town
32 pursuant to section 44-5.1-3.

33 (8) "Vacant and abandoned property" means any property, which is:

34 (i) A building that has remained continuously unoccupied during the privilege year or a

1 lot, with no existing structure that is littered with trash and obviously abandoned;

2 (ii) (A) In the case of property containing one or more buildings used in whole or in part
3 for one or more dwelling units immediately prior to the time the property became vacant, been
4 under continuous designation as vacant by a city's or town's department of minimum housing
5 during the privilege year; or

6 (B) In the case of property containing one or more buildings none of which were used in
7 whole or in part for one or more dwelling units immediately prior to the time the property became
8 vacant, been under continuous citation by an agency of a city or town for violation of minimum
9 housing code provisions relating to the health or safety of citizens during the privilege year.

10 SECTION 40. Section 44-9-12 of the General Laws in Chapter 44-9 entitled "Tax Sales"
11 is hereby amended to read as follows:

12 **44-9-12. Collector's deed -- Rights conveyed to purchaser -- Recording.** -- (a) The
13 collector shall execute and deliver to the purchaser a deed of the land, stating the cause of sale,
14 the price for which the land was sold, the places where the notices were posted, the name of the
15 newspaper in which the advertisement of the sale was published, the residence of the grantee, and
16 if notice of the sale was given to the Rhode Island Housing and Mortgage Finance Corporation
17 and or to the department of elderly affairs under the provisions of section 44-9-10, the collector
18 shall include an affirmative certification as to which entity/entities received notice and the date(s)
19 on which each such notice was given which shall set forth in the collector's deed. The deed shall
20 convey the land to the purchaser, subject to the right of redemption. The conveyed title shall, until
21 redemption or until the right of redemption is foreclosed, be held as security for the repayment of
22 the purchase price, with all intervening costs, terms imposed for redemption, and charges, with
23 interest, and the premises conveyed, both before and after either redemption or foreclosure, shall
24 also be subject to and have the benefit of all easements and restrictions lawfully existing in, upon,
25 or over the land or appurtenant to the land. The deed is not valid unless recorded within sixty (60)
26 days after the sale. If the deed is recorded it is prima facie evidence of all facts essential to the
27 validity of the title conveyed by the deed. It shall be the duty of the collector to record the deed
28 within sixty (60) days of the sale and to forward said deed promptly to the tax sale purchaser. The
29 applicable recording fee shall be paid by the redeeming party. Except as provided, no sale shall
30 give to the purchaser any right to either the possession, or the rents, or profits of the land until the
31 expiration of one year after the date of the sale, nor shall any sale obviate or transfer any
32 responsibility of an owner of property to comply with any statute of this state or ordinance of any
33 municipality governing the use, occupancy, or maintenance or conveyance of property until the
34 right of redemption is foreclosed.

1 **(b)** The rents to which the purchaser shall be entitled after the expiration of one year and
2 prior to redemption shall be those net rents actually collected by the former fee holder or a
3 mortgagee under an assignment of rents. Rents shall not include mere rental value of the land, nor
4 shall the purchaser be entitled to any rent for owner-occupied single-unit residential property. For
5 purposes of redemption, net rents shall be computed by deducting from gross rents actually
6 collected any sums expended directly or on behalf of the tenant from whom the rent was
7 collected. Such expenditure shall include utilities furnished, repairs made to the tenanted unit, and
8 services provided for the benefit of the tenant. However, mortgagee payments, taxes and sums
9 expended for general repair and renovation (i.e. capital improvements) shall not be deductible
10 expenses in the computation of the rent.

11 ~~(b)~~ **(c)** This tax title purchaser shall not be liable for any enforcement or penalties arising
12 from violations of environmental or minimum housing standards prior to the expiration of one
13 year from the date of the tax sale, except for violations which are the result of intentional acts by
14 the tax sale purchaser or his or her agents.

15 ~~(c)~~ **(d)** Upon the expiration of one year after the date of the sale, the tax title holder shall
16 be jointly and severally liable with the owner for all responsibility and liability for the property
17 and shall be responsible to comply with any statute of this state or ordinance of any municipality
18 governing the use, occupancy, or maintenance or conveyance of the property even prior to the
19 right of redemption being foreclosed. Nothing in this section shall be construed to confer any
20 liability upon a city or town, which receives tax title as a result of any bids being made for the
21 land offered for sale at an amount equal to the tax and charges.

22 ~~(d)~~ **(e)** In the event that the tax lien is acquired by the Rhode Island Housing and
23 Mortgage Finance Corporation, and said corporation has paid the taxes due, title shall remain
24 with the owner of the property, subject to the right of the corporation to take the property in its
25 own name, pursuant to applicable statutes and any regulations duly adopted by the corporation.
26 Upon such notice by the corporation, the collector shall execute and deliver a deed to the
27 corporation as herein provided.

28 SECTION 41. Section 44-19-10 of the General Laws in Chapter 44-19 entitled "Sales
29 and Use Taxes - Enforcement and Collection" is hereby amended to read as follows:

30 **44-19-10. Monthly returns and payments -- Monthly reports by show promoters. --**

31 **(a)** Except as provided in the Streamlined Sales and Use Tax Agreement contained in Chapter 44-
32 18.1 the taxes imposed by chapter 18 of this title are due and payable to the tax administrator
33 monthly on or before the twentieth (20th) day of the month next succeeding the month for which
34 return is required to be made. On or before the twentieth (20th) day of each month, a return for

1 the previous month shall be filed with the tax administrator in a form that the tax administrator
2 may prescribe. For purposes of the sales tax, a return shall be filed by every person engaged in the
3 business of making retail sales, the gross receipts from which are required to be included in the
4 measure of the sales tax. The tax administrator may require the filing of a return by any person
5 holding a permit as provided in section 44-19-2 or 44-19-3. For purposes of the use tax, a return
6 shall be filed by every retailer maintaining a place of business in the state and by every person
7 purchasing tangible personal property, the storage, use, or other consumption of which is subject
8 to the use tax, who has not paid the use tax due to a retailer required to collect the tax. The return
9 shall be in a form, include information, and bear any signatures that the tax administrator may
10 require. At the time of the filing of any return required under this chapter, the taxpayer shall pay
11 to the tax administrator the tax due for the month covered by that return. For the purposes of the
12 sales tax, gross receipts from rentals, or leases of tangible personal property are reported and the
13 tax paid in the manner required by the tax administrator. The tax administrator for good cause
14 may extend, for not to exceed one month, the time for making any return or paying any amount
15 required to be paid under this chapter. Any person to whom an extension is granted shall pay, in
16 addition to the tax, interest at the annual rate prescribed by section 44-1-7 or fraction of it, from
17 the date on which the tax would have been due without the extension until the date of payment.
18 Where a taxpayer's sales and use tax liability for six (6) consecutive months has averaged less
19 than two hundred dollars (\$200) per month, a quarterly return and remittances in lieu of a
20 monthly return may be made on or before the last day of July, October, January, and April of
21 each year for the preceding three (3) months' period when specially authorized, in writing, by the
22 tax administrator under those rules and regulations as may be prescribed by the administrator. In
23 the event that a taxpayer filing his or her return on a quarterly basis, as provided in this section,
24 becomes delinquent in either the filing of his or her return or the payment of the taxes due, or in
25 the event that the liability of a taxpayer, who has been authorized to file his or her return and to
26 make payments on a quarterly basis, exceeds six hundred dollars (\$600) in sales and use taxes for
27 any subsequent quarter, or in the event that the tax administrator determines that any quarterly
28 filing of return and payment of tax due thereon would unduly jeopardize the proper
29 administration of the provisions of this chapter or of chapter 18 of this title, the tax administrator
30 may, at any time, revoke the authorization, in which case the taxpayer will then be required to file
31 his or her return and to pay the tax due in the manner provided for in this section.

32 (b) Every promoter shall file a report monthly, within twenty (20) days after the end of
33 the prior month, for each show which the promoter operates, listing the date and place of each
34 show and the name, address, and permit number, by show, of every person whom the promoter

1 permitted to display or sell tangible personal property, services, or food and drink. Every person
2 shall furnish the promoter of any show at which the person displays or sells tangible personal
3 property, services, or food and drink, information for the promoter's use in filing the report
4 required by this subsection.

5 SECTION 42. Section 44-20-51.3 of the General Laws in Chapter 44-20 entitled
6 "Cigarette Tax" is hereby amended to read as follows:

7 **44-20-51.3. Counterfeit cigarettes.** – (a) Notwithstanding any other provision of law,
8 the sale or possession for sale of counterfeit cigarettes by a manufacturer, importer, distributor, or
9 dealer shall result in the seizure of the product and related machinery by the administrator or any
10 law enforcement agency and shall be punishable as follows:

11 ~~(a)~~ (1) A knowing violation involving a total quantity of less than two (2) cartons of
12 cigarettes shall be punishable by a fine of one thousand dollars (\$1,000) or five (5) times the retail
13 value of the cigarettes involved, whichever is greater, or imprisonment not to exceed five (5)
14 years, or both.

15 ~~(b)~~ (2) A subsequent knowing violation involving a total quantity of less than two (2)
16 cartons of cigarettes shall be punishable by a fine of five thousand dollars (\$5,000) or five (5)
17 times the retail value of the cigarettes involved, whichever is greater, or imprisonment not to
18 exceed five (5) years, or both, and shall also result in the revocation by the administrator of the
19 manufacturer, importer, distributor, or dealer license.

20 ~~(c)~~ (3) A first knowing violation involving a total quantity of two (2) cartons of
21 cigarettes or more shall be punishable by a fine of two thousand dollars (\$2,000) or five (5) times
22 the retail value of the cigarettes involved, whichever is greater, or imprisonment not to exceed
23 five (5) years, or both.

24 ~~(d)~~ (4) A subsequent knowing violation involving a quantity of two (2) cartons of
25 cigarettes or more shall be punishable by a fine of fifty thousand dollars (\$50,000) or five (5)
26 times the retail value of the cigarettes involved, whichever is greater, or imprisonment not to
27 exceed five (5) years, or both, and shall also result in the revocation by the administrator of the
28 manufacturer, importer, distributor, or dealer license.

29 (b) For purposes of this section, counterfeit cigarettes includes cigarettes that have false
30 manufacturing labels or packages of cigarettes bearing counterfeit tax stamps. Any counterfeit
31 cigarettes seized by the administrator shall be destroyed.

32 SECTION 43. Section 44-20.1-1 of the General Laws in Chapter 44-20.1 entitled
33 "Delivery Sales of Cigarettes" is hereby amended to read as follows:

34 **44-20.1-1. Definitions.** – For purposes of this chapter:

1 (1) "Administrator" means the tax administrator.

2 ~~(+)~~ (2) "Adult" means a person who is at least the legal minimum purchase age.

3 ~~(=)~~ (3) "Consumer" means an individual who is not licensed as a wholesaler or retailer
4 pursuant to the provisions of section 44-20-2.

5 ~~(=)~~ (4) "Delivery sale" means any sale of cigarettes to a consumer in the state where
6 either:

7 (i) The purchaser submits the order for such sale by means of a telephonic or other
8 method of voice transmission, the mail or any other delivery service, or the Internet or other
9 online service; or

10 (ii) The cigarettes are delivered by use of the mails or other delivery service. A sale of
11 cigarettes shall be a delivery sale regardless of whether the seller is located within or without the
12 state. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or a
13 retail dealer shall not be a delivery sale.

14 ~~(4)~~ (5) "Delivery service" means any person who is engaged in the commercial delivery
15 of letters, packages, or other containers.

16 ~~(5) "Administrator" means the tax administrator.~~

17 (6) "Legal minimum purchase age" means the minimum age at which an individual may
18 legally purchase cigarettes in the state.

19 (7) "Mail" or "mailing" means the shipment of cigarettes through the United States
20 Postal Service.

21 (8) "Person" means the same as that term is defined in section 44-20-1.

22 (9) "Shipping container" means bills of lading, airbills, or any other documents used to
23 evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

24 SECTION 44. Section 44-20.2-1 of the General Laws in Chapter 44-20.2 entitled "Little
25 Cigar Tax" is hereby amended to read as follows:

26 **44-20.2-1. Definitions.** -- Whenever used in this chapter, unless the context requires
27 otherwise:

28 (1) "Administrator" means the tax administrator;

29 ~~(2) "Little cigars" means and includes any roll, made wholly or in part of tobacco,~~
30 ~~irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or~~
31 ~~mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco~~
32 ~~wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except~~
33 ~~where such wrapper is wholly or in greater part made of tobacco and such roll weighs over three~~
34 ~~(3) pounds per thousand (1,000);~~

1 ~~(3)~~ (2) "Dealer" means any person whether located within or outside of this state, who
2 sells or distributes little cigars to a consumer in this state;

3 ~~(4)~~ (3) "Distributor" means any person:

4 ~~(A)~~ (i) Whether located within or outside of this state, other than a dealer, who sells or
5 distributes little cigars within or into this state. Such term shall not include any little cigar
6 manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C.
7 section 5712, if such person sells or distributes little cigars in this state only to licensed
8 distributors, or to an export warehouse proprietor or another manufacturer with a valid permit
9 under 26 U.S.C. section 5712;

10 ~~(B)~~ (ii) Selling little cigars directly to consumers in this state by means of at least
11 twenty-five (25) little cigar vending machines.

12 ~~(5)~~ (4) "Importer" means any person who imports into the United States, either directly
13 or indirectly, a finished little cigar for sale or distribution;

14 ~~(6)~~ (5) "Licensed" when used with reference to a manufacturer, importer, distributor or
15 dealer, means only those persons who hold a valid and current license issued under section 44-20-
16 2 for the type of business being engaged in. When the term "licensed" is used before a list of
17 entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term
18 shall be deemed to apply to each entity in such list;

19 (6) "Little cigars" means and includes any roll, made wholly or in part of tobacco,
20 irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or
21 mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco
22 wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except
23 where such wrapper is wholly or in greater part made of tobacco and such roll weighs over three
24 (3) pounds per thousand (1,000);

25 (7) "Manufacturer" means any person who manufactures, fabricates, assembles,
26 processes, or labels a finished little cigar;

27 (8) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or
28 association, however formed;

29 (9) "Place of business" means and includes any place where little cigars are sold or
30 where little cigars are stored or kept for the purpose of sale or consumption, including any vessel,
31 vehicle, airplane, train, or vending machine;

32 (10) "Sale" or "Sell" includes and applies to gifts, exchanges, and barter;

33 (11) "Snuff" means any finely cut, ground, or powdered tobacco that is not intended to
34 be smoked;

1 (12) "Stamp" means the impression, device, stamp, label, or print manufactured, printed,
2 or made as prescribed by the administrator to be affixed to packages of little cigars, as evidence
3 of the payment of the tax provided by this chapter or to indicate that the little cigars are intended
4 for a sale or distribution in this state that is exempt from state tax under the provisions of state
5 law and also includes impressions made by metering machines authorized to be used under the
6 provisions of this chapter.

7 SECTION 45. Section 44-33.3-3 of the General Laws in Chapter 44-33.3 entitled
8 "Newport Senior Resident Property Tax Services Credit Program" is hereby amended to read as
9 follows:

10 **44-33.3-3. Ownership.** – (a) The taxpayer or taxpayers applying for the senior resident
11 property tax service credit program must be the owner of the respective real estate to which the
12 credit will apply.

13 (b) If the property is held in trust, the beneficiary or beneficiaries of the trust must be the
14 taxpayer or taxpayers applying for the senior resident property tax service credit program.

15 SECTION 46. Section 44-62-2 of the General Laws in Chapter 44-62 entitled "Tax
16 Credits for Contributions to Scholarship Organizations" is hereby amended to read as follows:

17 **44-62-2. Qualification of scholarship organization.** -- A scholarship organization must
18 certify annually by December 31st to the division of taxation that the organization is eligible to
19 participate in the program in accordance with criteria as defined below:

20 ~~(a) "Scholarship organization" means a charitable organization in this state that is exempt~~
21 ~~from federal taxation under section 501(c)(3) of the internal revenue code, and that allocates at~~
22 ~~least ninety percent (90%) of its annual revenue through a scholarship program for tuition~~
23 ~~assistance grants to eligible students to allow them to attend any qualified school of their parents'~~
24 ~~choice represented by the scholarship organization.~~

25 ~~(b) "Scholarship program" means a program to provide tuition assistance grants to~~
26 ~~eligible students to attend a nonpublic school located in this state. A scholarship program must~~
27 ~~include an application and review process for the purpose of making these grants only to eligible~~
28 ~~students. The award of scholarships to eligible students shall be made without limiting~~
29 ~~availability to only students of one school.~~

30 ~~(c)~~ (1) "Eligible student" means a school-age student who is registered in a qualified
31 school and is a member of a household with an annual household income of not more than two
32 hundred fifty percent (250%) of the federal poverty guidelines as published in the federal register
33 by the United States department of health and human services.

34 ~~(d)~~ (2) "Household" means one or more persons occupying a dwelling unit and living as

1 a single nonprofit housekeeping unit. Household does not mean bona fide lessees, tenants, or
2 roomers and borders on contract.

3 ~~(e)~~ (3) "Household income" means all income received by all persons of a household in a
4 calendar year while members of the household.

5 ~~(f)~~ (4) "Income" means the sum of federal adjusted gross income as defined in the
6 internal revenue code of the United States, 26 U.S.C. section 1 et seq., and all nontaxable income
7 including, but not limited to, the amount of capital gains excluded from adjusted gross income,
8 alimony, support money, nontaxable strike benefits, cash public assistance and relief (not
9 including relief granted under this chapter), the gross amount of any pension or annuity
10 (including Railroad Retirement Act (see 45 U.S.C. section 231 et seq.) benefits, all payments
11 received under the federal Social Security Act, 42 U.S.C. section 301 et seq., state unemployment
12 insurance laws, and veterans' disability pensions (see 38 U.S.C. section 301 et seq.), nontaxable
13 interest received from the federal government or any of its instrumentalities, workers'
14 compensation, and the gross amount of "loss of time" insurance. It does not include gifts from
15 nongovernmental sources, or surplus foods or other relief in kind supplied by a public or private
16 agency.

17 ~~(g)~~ (5) "Qualified school" means a nonpublic elementary or secondary school that is
18 located in this state and that satisfies the requirements prescribed by law for nonpublic schools in
19 this state.

20 (6) "Scholarship organization" means a charitable organization in this state that is exempt
21 from federal taxation under section 501(c)(3) of the internal revenue code, and that allocates at
22 least ninety percent (90%) of its annual revenue through a scholarship program for tuition
23 assistance grants to eligible students to allow them to attend any qualified school of their parents'
24 choice represented by the scholarship organization.

25 (7) "Scholarship program" means a program to provide tuition assistance grants to
26 eligible students to attend a nonpublic school located in this state. A scholarship program must
27 include an application and review process for the purpose of making these grants only to eligible
28 students. The award of scholarships to eligible students shall be made without limiting
29 availability to only students of one school.

30 ~~(h)~~ (8) "School-age student" means a child at the earliest admission age to a qualified
31 school's kindergarten program or, when no kindergarten program is provided, the school's earliest
32 admission age for beginners, until the end of the school year, the student attains twenty-one (21)
33 years of age or graduation from high school whichever occurs first.

34 ~~(i)~~ (9) Designation. - A donation to a scholarship organization, for which the donor

1 receives a tax credit under this provision, may not be designated to any specific school or student
2 by the donor.

3 ~~(9)~~ (10) Nontaxable income. - A scholarship received by an eligible student shall not be
4 considered to be taxable income.

5 SECTION 47. Section 44-65-2 of the General Laws in Chapter 44-65 entitled "Imaging
6 Services Surcharge" is hereby amended to read as follows:

7 **44-65-2. Definitions.** -- The following words and phrases as used in this chapter have the
8 following meaning:

9 (1) "Administrator" means the tax administrator within the department of administration.

10 (2) "Gross patient revenue" means the gross amount received on a cash basis by a
11 provider from all income derived from the provision of imaging services to patients. Charitable
12 contributions, fundraising proceeds, and endowment support shall not be considered as "gross
13 patient revenue."

14 (3) "Imaging services" means and includes all the professional and technical components
15 of x-ray, ultrasound (including echocardiography), computed tomography (CT), magnetic
16 resonance imaging (MRI), positron emission tomography (PET), positron emission
17 tomography/computed tomography (PET/CT), general nuclear medicine, and bone densitometry
18 procedures.

19 ~~(3)~~ (4) "Net patient services revenue" means the charges related to patient care services
20 less (i) charges attributable to charity care, (ii) bad debt expenses, and (iii) contractual
21 allowances.

22 ~~(4) "Imaging services" means and includes all the professional and technical components~~
23 ~~of x-ray, ultrasound (including echocardiography), computed tomography (CT), magnetic~~
24 ~~resonance imaging (MRI), positron emission tomography (PET), positron emission~~
25 ~~tomography/computed tomography (PET/CT), general nuclear medicine, and bone densitometry~~
26 ~~procedures.~~

27 (5) "Person" means any individual, corporation, company, association, partnership, joint
28 stock association, and the legal successor thereof.

29 (6) "Provider" means any person who furnishes imaging services for the purposes of
30 patient diagnosis, assessment or treatment, excluding any person licensed as a hospital or a
31 rehabilitation hospital center or a not-for-profit organization ambulatory care facility, pursuant to
32 the provisions of chapter 17 of title 23 of the Rhode Island general laws, as amended or not
33 performing more than two hundred (200) radiological procedures per month. Further, the term
34 "provider" shall not apply to any person subject to the provisions of chapter 64 of title 44 or to

1 any person licensed in the state of Rhode Island as a dentist or a podiatrist or a veterinarian.

2 (7) "Surcharge" means the assessment imposed upon net patient revenue pursuant to this
3 chapter.

4 SECTION 48. This act shall take effect upon passage.

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LC01752/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

1 This act would constitute the statutory construction bill, which is annually prepared based
2 upon recommendations of the law revision office. The act would make technical changes to
3 various sections of the general laws.

4 This act would take effect upon passage.

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LC01752/SUB A/2
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