

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Representatives Batista, Potter, and Giraldo

Date Introduced: March 04, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28-4.01 of the General Laws in Chapter 21-28 entitled "Uniform
2 Controlled Substances Act" is hereby repealed.

3 ~~21-28-4.01. Prohibited acts A -- Penalties. [As amended by P.L. 2021, ch. 100, § 1 and~~
4 ~~P.L. 2021, ch. 101, § 1.]~~

5 ~~(a)(1) Except as authorized by this chapter, it shall be unlawful for any person to~~
6 ~~manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.~~

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

12 ~~(3) Where the deliverance as prohibited in this subsection shall be the proximate cause of~~
13 ~~death to the person to whom the controlled substance is delivered, it shall not be a defense that the~~
14 ~~person delivering the substance was, at the time of delivery, a drug addicted person as defined in §~~
15 ~~21-28-1.02.~~

16 ~~(4) Any person, except as provided for in subsection (a)(2), who violates this subsection~~
17 ~~with respect to:~~

18 ~~(i) A controlled substance, classified in schedule I or II, is guilty of a crime and, upon~~
19 ~~conviction, may be imprisoned for not more than thirty (30) years, or fined not more than one~~

1 ~~hundred thousand dollars (\$100,000) nor less than three thousand dollars (\$3,000), or both;~~

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

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

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

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

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

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

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

24 ~~(c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled~~
25 ~~substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or~~
26 ~~order of a practitioner while acting in the course of his or her professional practice, or except as~~
27 ~~otherwise authorized by this chapter.~~

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

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

33 ~~(ii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as~~
34 ~~marijuana is guilty of a misdemeanor, except for those persons subject to (a)(1), and, upon~~

1 conviction, may be imprisoned for not more than one year, or fined not less than two hundred
2 dollars (\$200) nor more than five hundred dollars (\$500), or both.

3 (iii) Notwithstanding any public, special, or general law to the contrary, the possession of
4 one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older, and
5 who is not exempted from penalties pursuant to chapter 28.6 of this title, shall constitute a civil
6 offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars
7 (\$150) and forfeiture of the marijuana, but not to any other form of criminal or civil punishment or
8 disqualification. Notwithstanding any public, special, or general law to the contrary, this civil
9 penalty of one hundred fifty dollars (\$150) and forfeiture of the marijuana shall apply if the offense
10 is the first (1st) or second (2nd) violation within the previous eighteen (18) months.

11 (iv) Notwithstanding any public, special, or general law to the contrary, possession of one
12 ounce (1 oz.) or less of marijuana by a person who is seventeen (17) years of age or older and under
13 the age of eighteen (18) years, and who is not exempted from penalties pursuant to chapter 28.6 of
14 this title, shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount
15 of one hundred fifty dollars (\$150) and forfeiture of the marijuana; provided the minor offender
16 completes an approved, drug awareness program and community service as determined by the
17 court. If the person seventeen (17) years of age or older and under the age of eighteen (18) years
18 fails to complete an approved, drug awareness program and community service within one year of
19 the disposition, the penalty shall be a three hundred dollar (\$300) civil fine and forfeiture of the
20 marijuana, except that if no drug awareness program or community service is available, the penalty
21 shall be a fine of one hundred fifty dollars (\$150) and forfeiture of the marijuana. The parents or
22 legal guardian of any offender seventeen (17) years of age or older and under the age of eighteen
23 (18) shall be notified of the offense and the availability of a drug awareness and community service
24 program. The drug awareness program must be approved by the court, but shall, at a minimum,
25 provide four (4) hours of instruction or group discussion and ten (10) hours of community service.
26 Notwithstanding any other public, special, or general law to the contrary, this civil penalty shall
27 apply if the offense is the first or second violation within the previous eighteen (18) months.

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

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

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

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

15 ~~(ix) Any records collected by any state agency, tribunal, or the family court that include~~
16 ~~personally identifiable information about violations of (c)(2)(iii) or (c)(2)(iv) shall not be open to~~
17 ~~public inspection in accordance with § 8-8.2-21.~~

18 ~~(3) Jurisdiction. Any and all violations of (c)(2)(iii) and (c)(2)(iv) shall be the exclusive~~
19 ~~jurisdiction of the Rhode Island traffic tribunal. All money associated with the civil fine issued~~
20 ~~under (c)(2)(iii) or (c)(2)(iv) shall be payable to the Rhode Island traffic tribunal. Fifty percent~~
21 ~~(50%) of all fines collected by the Rhode Island traffic tribunal from civil penalties issued pursuant~~
22 ~~to (c)(2)(iii) or (c)(2)(iv) shall be expended on drug awareness and treatment programs for youth.~~

23 ~~(4) Additionally, every person convicted or who pleads nolo contendere under (c)(2)(i) or~~
24 ~~convicted or who pleads nolo contendere a second or subsequent time under (c)(2)(ii), who is not~~
25 ~~sentenced to a term of imprisonment to serve for the offense, shall be required to:~~

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

27 ~~(ii) Attend and complete a drug counseling and education program, as prescribed, by the~~
28 ~~director of the department of behavioral healthcare, developmental disabilities and hospitals and~~
29 ~~pay the sum of four hundred dollars (\$400) to help defray the costs of this program which shall be~~
30 ~~deposited as general revenues. Failure to attend may result, after hearing by the court, in jail~~
31 ~~sentence up to one year;~~

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

34 ~~(iv) If the offense involves the use of any automobile to transport the substance or the~~

1 ~~substance is found within an automobile, then a person convicted or who pleads nolo contendere~~
2 ~~under (c)(2)(i) and (c)(2)(ii) shall be subject to a loss of license for a period of six (6) months for a~~
3 ~~first offense and one year for each offense after.~~

4 ~~(5) All fees assessed and collected pursuant to (c)(3)(ii) shall be deposited as general~~
5 ~~revenues and shall be collected from the person convicted or who pleads nolo contendere before~~
6 ~~any other fines authorized by this chapter.~~

7 ~~(d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to~~
8 ~~manufacture or distribute, an imitation controlled substance. Any person who violates this~~
9 ~~subsection is guilty of a crime and, upon conviction, shall be subject to the same term of~~
10 ~~imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the~~
11 ~~controlled substance that the particular imitation controlled substance forming the basis of the~~
12 ~~prosecution was designed to resemble and/or represented to be; but in no case shall the~~
13 ~~imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars~~
14 ~~(\$20,000).~~

15 ~~(e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an~~
16 ~~anabolic steroid or human growth hormone for: (1) Enhancing performance in an exercise, sport,~~
17 ~~or game, or (2) Hormonal manipulation intended to increase muscle mass, strength, or weight~~
18 ~~without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor~~
19 ~~and, upon conviction, may be imprisoned for not more than six (6) months or a fine of not more~~
20 ~~than one thousand dollars (\$1,000), or both.~~

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

31 ~~**21-28-4.01. Prohibited acts A -- Penalties. [As amended by P.L. 2021, ch. 286, § 2 and**~~
32 ~~**P.L. 2021, ch. 287, § 2.]**~~

33 ~~(a)(1) Except as authorized by this chapter, it shall be unlawful for any person to~~
34 ~~manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.~~

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

6 ~~(3) Where the deliverance as prohibited in this subsection shall be the proximate cause of~~
7 ~~death to the person to whom the controlled substance is delivered, it shall not be a defense that the~~
8 ~~person delivering the substance was, at the time of delivery, a drug-addicted person as defined in §~~
9 ~~21-28-1.02.~~

10 ~~(4) Any person, except as provided for in subsection (a)(2), who violates this subsection~~
11 ~~with respect to:~~

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

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

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

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

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

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

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

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

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

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

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

8 ~~(i) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, ten grams (10 g.) or~~
9 ~~less of a mixture or substance containing a detectable amount of a controlled substance classified~~
10 ~~in schedules I, II, III, IV, and V, except the substance classified as marijuana, is guilty of a~~
11 ~~misdemeanor and, upon conviction, may be imprisoned for not more than two (2) years, or fined~~
12 ~~not more than five hundred dollars (\$500) or both.~~

13 ~~(ii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than ten grams~~
14 ~~(10 g.), but less than one ounce (1 oz.) of a mixture or substance containing a detectable amount of~~
15 ~~a controlled substance classified in schedules I, II and III, IV, and V, except the substance classified~~
16 ~~as marijuana, is guilty of a felony and, upon conviction, may be imprisoned for not more than three~~
17 ~~(3) years, or fined not more than five thousand dollars (\$5,000), or both.~~

18 ~~(iii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as~~
19 ~~marijuana is guilty of a misdemeanor, except for those persons subject to (a)(1), and, upon~~
20 ~~conviction, may be imprisoned for not more than one year, or fined not more than five hundred~~
21 ~~dollars (\$500), or both.~~

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

30 ~~(v) Notwithstanding any public, special, or general law to the contrary, possession of one~~
31 ~~ounce (1 oz.) or less of marijuana by a person who is seventeen (17) years of age or older and under~~
32 ~~the age of eighteen (18) years, and who is not exempted from penalties pursuant to chapter 28.6 of~~
33 ~~this title, shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount~~
34 ~~of one hundred fifty dollars (\$150) and forfeiture of the marijuana; provided the minor offender~~

1 ~~completes an approved, drug awareness program and community service as determined by the~~
2 ~~court. If the person seventeen (17) years of age or older and under the age of eighteen (18) years~~
3 ~~fails to complete an approved, drug awareness program and community service within one year of~~
4 ~~the disposition, the penalty shall be a three hundred dollar (\$300) civil fine and forfeiture of the~~
5 ~~marijuana, except that if no drug awareness program or community service is available, the penalty~~
6 ~~shall be a fine of one hundred fifty dollars (\$150) and forfeiture of the marijuana. The parents or~~
7 ~~legal guardian of any offender seventeen (17) years of age or older and under the age of eighteen~~
8 ~~(18) shall be notified of the offense and the availability of a drug awareness and community service~~
9 ~~program. The drug awareness program must be approved by the court, but shall, at a minimum,~~
10 ~~provide four (4) hours of instruction or group discussion and ten (10) hours of community service.~~
11 ~~Notwithstanding any other public, special, or general law to the contrary, this civil penalty shall~~
12 ~~apply if the offense is the first or second violation within the previous eighteen (18) months.~~

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

20 ~~(vii) Any unpaid civil fine issued under (c)(2)(iv) or (c)(2)(v) shall double to three hundred~~
21 ~~dollars (\$300) if not paid within thirty (30) days of the disposition. The civil fine shall double again~~
22 ~~to six hundred dollars (\$600) if it has not been paid within ninety (90) days.~~

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

32 ~~(ix) No violation of (c)(2)(iv) or (c)(2)(v) of this subsection shall be considered a violation~~
33 ~~of parole or probation.~~

34 ~~(x) Any records collected by any state agency, tribunal, or the family court that include~~

1 ~~personally identifiable information about violations of (c)(2)(iv) or (c)(2)(v) shall not be open to~~
2 ~~public inspection in accordance with § 8-8.2-21.~~

3 ~~(3) Jurisdiction.~~

4 ~~(i) Any and all adjudications of violations of (c)(2)(i) shall be within the original~~
5 ~~jurisdiction of the Rhode Island superior court. The department of attorney general shall prosecute~~
6 ~~any and all violations of (c)(2)(i).~~

7 ~~(ii) Any and all violations of (c)(2)(iv) and (c)(2)(v) shall be the exclusive jurisdiction of~~
8 ~~the Rhode Island traffic tribunal. All money associated with the civil fine issued under (c)(2)(iv) or~~
9 ~~(c)(2)(v) shall be payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines~~
10 ~~collected by the Rhode Island traffic tribunal from civil penalties issued pursuant to (c)(2)(iv) or~~
11 ~~(c)(2)(v) shall be expended on drug awareness and treatment programs for youth.~~

12 ~~(4) Additionally, every person convicted or who pleads nolo contendere under (c)(2)(i) or~~
13 ~~(c)(2)(ii) or convicted or who pleads nolo contendere a second or subsequent time under (c)(2)(iii),~~
14 ~~who is not sentenced to a term of imprisonment to serve for the offense, shall be required to:~~

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

16 ~~(ii) Attend and complete a drug counseling and education program, as prescribed, by the~~
17 ~~director of the department of behavioral healthcare, developmental disabilities and hospitals and~~
18 ~~pay the sum of four hundred dollars (\$400) to help defray the costs of this program which shall be~~
19 ~~deposited as general revenues. Failure to attend may result, after hearing by the court, in jail~~
20 ~~sentence up to one year;~~

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

23 ~~(iv) If the offense involves the use of any automobile to transport the substance or the~~
24 ~~substance is found within an automobile, then a person convicted or who pleads nolo contendere~~
25 ~~under (c)(2)(i), (c)(2)(ii) or (c)(2)(iii) shall be subject to a loss of license for a period of six (6)~~
26 ~~months for a first offense and one year for each offense after.~~

27 ~~(5) All fees assessed and collected pursuant to (c)(2)(iii) shall be deposited as general~~
28 ~~revenues and shall be collected from the person convicted or who pleads nolo contendere before~~
29 ~~any other fines authorized by this chapter.~~

30 ~~(d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to~~
31 ~~manufacture or distribute, an imitation controlled substance. Any person who violates this~~
32 ~~subsection is guilty of a crime and, upon conviction, shall be subject to the same term of~~
33 ~~imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the~~
34 ~~controlled substance that the particular imitation controlled substance forming the basis of the~~

1 ~~prosecution was designed to resemble and/or represented to be; but in no case shall the~~
2 ~~imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars~~
3 ~~(\$20,000).~~

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

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

20 SECTION 2. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances
21 Act" is hereby amended by adding thereto the following section:

22 **21-28-7.01. Prohibited acts -- Penalties.**

23 (a)(1) Except as authorized by this chapter, it shall be unlawful for any person to
24 manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

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

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

34 (4) Any person, except as provided for in subsection (a)(2) of this section, who violates

1 this subsection with respect to:

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

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

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

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

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

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

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

24 (iii) A counterfeit substance, classified in schedule V, is guilty of a crime and, upon
25 conviction, may be imprisoned for not more than one year, or fined not more than ten thousand
26 dollars (\$10,000), or both.

27 (c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled
28 substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or
29 order of a practitioner while acting in the course of his or her professional practice, or except as
30 otherwise authorized by this chapter.

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

32 (i) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, one ounce (1 oz.) or
33 less of a mixture or substance containing a detectable amount of a controlled substance classified
34 in schedules I, II, III, IV, and V, except the substance classified as fentanyl, is guilty of a civil

1 violation and shall be fined one hundred dollars (\$100) for a first offense, and up to three hundred
2 (\$300) for each subsequent offenses;

3 (ii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as
4 marijuana is guilty of a misdemeanor, except for those persons subject to subsection (a)(1) of this
5 section, and, upon conviction, may be imprisoned for not more than one year, or fined not more
6 than five hundred dollars (\$500), or both.

7 (iii) Notwithstanding any public, special, or general law to the contrary, the possession of
8 a controlled substance for personal use, shall result in the forfeiture of the controlled substance;
9 provided, however, the possession of a controlled substance for personal use shall not constitute
10 reasonable suspicion or probable cause to conduct a search of a motor vehicle or the premises where
11 the controlled substance is discovered.

12 (iv) Notwithstanding any public, special, or general law to the contrary, possession of one
13 ounce (1 oz.) or less of marijuana by a person who is seventeen (17) years of age or older and under
14 the age of eighteen (18) years, and who is not exempted from penalties pursuant to chapter 28.6 of
15 this title, shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount
16 of one hundred fifty dollars (\$150) and forfeiture of the marijuana; provided the minor offender
17 completes an approved, drug-awareness program and community service as determined by the
18 court. If the person seventeen (17) years of age or older and under the age of eighteen (18) years
19 fails to complete an approved, drug-awareness program and community service within one year of
20 the disposition, the penalty shall be a three hundred dollar (\$300) civil fine and forfeiture of the
21 marijuana, except that if no drug-awareness program or community service is available, the penalty
22 shall be a fine of one hundred fifty dollars (\$150) and forfeiture of the marijuana. The parents or
23 legal guardian of any offender seventeen (17) years of age or older and under the age of eighteen
24 (18) shall be notified of the offense and the availability of a drug-awareness and community-service
25 program. The drug-awareness program must be approved by the court, but shall, at a minimum,
26 provide four (4) hours of instruction or group discussion and ten (10) hours of community service.
27 Notwithstanding any other public, special, or general law to the contrary, this civil penalty shall
28 apply if the offense is the first or second violation within the previous eighteen (18) months.

29 (v) Any unpaid civil fine issued under subsection (c)(2)(i) or (c)(2)(iv) of this section shall
30 double if not paid within thirty (30) days of the disposition. The civil fine shall double again if it
31 has not been paid within ninety (90) days.

32 (vi) No person may be arrested for a violation of subsection (c)(2)(i) or (c)(2)(iv) of this
33 section except as provided in this subsection. Any person in possession of an identification card,
34 license, or other form of identification issued by the state or any state, city, or town, or any college

1 or university, who fails to produce the same upon request of a police officer who informs the person
2 that he or she has been found in possession of what appears to the officer to be one ounce (1 oz.)
3 or less of a controlled substance, or any person without any such forms of identification who fails
4 or refuses to truthfully provide his or her name, address, and date of birth to a police officer who
5 has informed such person that the officer intends to provide such individual with a citation for
6 possession of one ounce (1 oz.) or less of a controlled substance, may be arrested.

7 (ix) No violation of subsection (c)(2)(i) or (c)(2)(iv) of this section shall be considered a
8 violation of parole or probation.

9 (x) Any records collected by any state agency, tribunal, or the family court that include
10 personally identifiable information about violations of subsection (c)(2)(i) or (c)(2)(iv) of this
11 section shall not be open to public inspection in accordance with § 8-8.2-21.

12 (xi) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, ten grams (10 g.)
13 or less of a mixture or substance containing a detectable amount of a controlled substance classified
14 as fentanyl, is guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than
15 two (2) years, or fined not more than five hundred dollars (\$500) or both.

16 (ii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than ten grams
17 (10 g.), but less than one ounce (1 oz.) of a mixture or substance containing a detectable amount of
18 a controlled substance classified as fentanyl is guilty of a felony and, upon conviction, may be
19 imprisoned for not more than three (3) years, or fined not more than five thousand dollars (\$5,000),
20 or both.

21 (3) Jurisdiction.

22 (i) Any and all violations of subsection (c)(2)(i) and (c)(2)(iv) of this section shall be the
23 exclusive jurisdiction of the Rhode Island traffic tribunal. All money associated with the civil fine
24 issued under subsection (c)(2)(i) or (c)(2)(iv) of this section shall be payable to the Rhode Island
25 traffic tribunal. Fifty percent (50%) of all fines collected by the Rhode Island traffic tribunal from
26 civil penalties issued pursuant to subsection (c)(2)(i) or (c)(2)(iv) of this section shall be expended
27 on drug-awareness and treatment programs for youth.

28 (4) Additionally, every person convicted or who pleads nolo contendere under subsection
29 (c)(2)(i) of this section shall be required to:

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

31 (ii) Attend and complete a drug-counseling and education program, as prescribed, by the
32 director of the department of behavioral healthcare, developmental disabilities and hospitals and
33 pay the sum of four hundred dollars (\$400) to help defray the costs of this program which shall be
34 deposited as general revenues

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

3 (5) All fees assessed and collected pursuant to subsection (c)(2)(ii) of this section shall be
4 deposited as general revenues and shall be collected from the person convicted or who pleads nolo
5 contendere before any other fines authorized by this chapter.

6 (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to
7 manufacture or distribute, an imitation controlled substance. Any person who violates this
8 subsection is guilty of a crime and, upon conviction, shall be subject to the same term of
9 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
10 controlled substance that the particular imitation controlled substance forming the basis of the
11 prosecution was designed to resemble and/or represented to be; but in no case shall the
12 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
13 (\$20,000).

14 (e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an
15 anabolic steroid or human growth hormone for:

16 (1) Enhancing performance in an exercise, sport, or game; or

17 (2) Hormonal manipulation intended to increase muscle mass, strength, or weight without
18 a medical necessity. Any person who violates this subsection is guilty of a misdemeanor and, upon
19 conviction, may be imprisoned for not more than six (6) months or a fine of not more than one
20 thousand dollars (\$1,000), or both.

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

31 (g) Nothing contained in this section shall be construed as providing criminal penalties for
32 any person in possession of one ounce (1 oz.) or less of any controlled substances classified in
33 schedules I, II, III, IV, and V except for the drug fentanyl.

1 SECTION 3. This act shall take effect upon passage.

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LC004619
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

1 This act would decriminalize possession of one ounce (1 oz.) or less of any controlled
2 substances classified in schedules I, II, III, IV and V except for the drug fentanyl.

3 This act would take effect upon passage.

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LC004619
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