

2023 -- H 5486

LC001446

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO FOOD AND DRUGS -- THE RHODE ISLAND CANNABIS ACT

Introduced By: Representatives Donovan, McNamara, Cotter, Spears, Potter, Speakman,
Cortvriend, Casimiro, Caldwell, and McGaw

Date Introduced: February 10, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28.11-5 of the General Laws in Chapter 21-28.11 entitled "The
2 Rhode Island Cannabis Act" is hereby amended to read as follows:

3 **21-28.11-5. Powers and duties of the commission.**

4 (a) Subject to the state code of ethics and any internal ethics code adopted by the
5 commission, the commission shall have all the powers necessary and reasonable to carry out and
6 effectuate its purposes, including, but not limited to, the power to:

7 (1) Adopt, amend or repeal rules and regulations for the implementation, administration
8 and enforcement of this chapter;

9 (2) Determine which applicants shall be awarded licenses;

10 (3) Deny an application or limit, condition, restrict, revoke or suspend any license;

11 (4) Determine and establish the process and methodology by which licenses shall be
12 awarded by the commission;

13 (5) Require an applicant for licensure under this chapter to apply for such licensure and
14 approve or disapprove any such application or other transactions, events and processes as provided
15 in this chapter;

16 (6) Establish a registration process;

17 (7) Execute all instruments necessary and appropriate, in the commission's discretion, to
18 fulfill the purposes of this chapter;

19 (8) Enter into agreements or other transactions with a person, including, but not limited to,

1 a public entity or other governmental instrumentality or authority in connection with its powers and
2 duties under this chapter;

3 (9) Appear on its own behalf before boards, commissions, departments or other agencies
4 of municipal, state or federal government;

5 (10) Apply for and accept subventions, grants, loans, advances and contributions of money,
6 property, labor or other things of value from any source, to be held, used and applied for its purposes
7 subject to appropriation by the general assembly;

8 (11) Subject to appropriation by the general assembly, provide and pay for advisory
9 services and technical and other assistance including the hiring of appropriate support staff
10 personnel as may be necessary in its judgment to carry out the purpose and intent of this chapter,
11 and subject to applicable law, fix the compensation of persons providing such services or
12 assistance;

13 (12) Prepare, publish and distribute, with or without charge as the commission may
14 determine, such studies, reports, bulletins and other materials as required by the provisions of this
15 chapter or other applicable law or as the commission considers appropriate;

16 (13) Review data and market conditions on an annual basis to determine and recommend
17 the maximum number of licenses that shall be issued to meet the production demands to implement
18 the provisions of this chapter subject to enactment by the general assembly;

19 (14) Conduct and administer procedures and hearings in compliance with chapter 35 of
20 title 42 (the “administrative procedures act”) for adoption of rules or regulations, issuance, denial
21 or revocation of licenses or permits; or for violation of the provisions of this chapter or the rules
22 and regulations adopted pursuant to the provisions of this chapter;

23 (15) Gather facts and information and take action applicable to the commission’s
24 obligations pursuant to this chapter relating to:

25 (i) Any violation of this chapter or any rule or regulation adopted by the commission; and

26 (ii) Any willful violation of an order of the commission directed to a licensee or a person
27 required to be registered;

28 (iii) The conviction of a criminal offense, for the purpose of determining whether said
29 conviction substantially relates to the occupation or activity to which the license or registration
30 applies;

31 (iv) Any other action or conduct which would disqualify a licensee from holding a license
32 pursuant to the provisions of this chapter;

33 (16) In connection with matters having to do with the discharge of the duties of the
34 commission pursuant to this chapter, the chairperson of the commission, in cases pending before

1 the commission, is hereby authorized and empowered to summon witnesses to attend and testify in
2 a like manner as in either the supreme or superior courts. The commission is authorized to compel
3 the production of all papers, books, documents, records, certificates, or other legal evidence that
4 may be necessary for the determination and the decision of any question or the discharge of any
5 duty required by law of the commission, by issuing a subpoena duces tecum signed by the
6 chairperson. Any person who shall willfully swear falsely in any proceedings, matter, or hearing
7 before the commission shall be subject to the law pertaining to the crime of perjury. Any person
8 who disobeys may be referred by the chairperson of the commission to the presiding justice of the
9 superior court for assignment of a hearing on civil contempt citation and/or to the attorney general
10 for criminal contempt prosecution;

11 (17) Conduct investigations into the qualifications of all applicants for employment by the
12 commission, the cannabis office and all applicants for licensure pursuant to the provisions of this
13 chapter;

14 (18) Receive from the state police, the department of attorney general or other criminal
15 justice agencies, including, but not limited to, the Federal Bureau of Investigation and the Internal
16 Revenue Service, such criminal record information relating to criminal and background
17 investigations as necessary for the purpose of evaluating licensees, applicants for licenses,
18 laboratory agents, and any other employee or agent of a cannabis establishment, as determined by
19 the commission or otherwise required by law;

20 (19) Be present, through its designated inspectors and agents, at any reasonable time, in
21 cannabis establishments for the purposes of exercising its powers and duties;

22 (20) Inspect cannabis establishments and have access to all equipment and supplies in a
23 cannabis establishment for the purpose of ensuring and enforcing compliance with this chapter,
24 chapter 28.6 of this title, and all rules and regulations promulgated pursuant to this chapter and
25 chapter 28.6 of this title;

26 (21) In accordance with all applicable law, coordinate with the state police to seize,
27 impound and remove from the premises of a cannabis establishment any cannabis, equipment,
28 supplies, documents and records obtained or possessed in violation of this chapter, chapter 28.6 of
29 this title, or the rules and regulations of the commission;

30 (22) Require that the books and financial or other records or statements of a licensee be
31 kept in a manner that the commission deems proper;

32 (23) For cause, demand access to and inspect all papers, books and records of close
33 associates of a licensee whom the commission reasonably suspects is involved in the financing,
34 operation or management of the licensee; provided, however, that the inspection, examination,

1 photocopying and audit may take place on the affiliate’s premises or elsewhere as practicable and
2 in the presence of the affiliate or its agent;

3 (24) Impose and collect fees, sanctions and administrative penalties, as authorized by this
4 chapter and established by regulation, and for a violation of any rule or regulation promulgated by
5 the commission except as of December 1, 2022, no fee shall be authorized or imposed for registry
6 identification cards or for plant tags;

7 (25) Establish adjudicatory procedures and conduct adjudicatory proceedings pursuant to
8 the provisions of chapter 35 of title 42 (the “administrative procedures act”);

9 (26) Refer cases for criminal prosecution to the appropriate federal, state or local
10 authorities;

11 (27) Maintain an official Internet website for the commission that, in the discretion of the
12 commission, may be in coordination with the cannabis office;

13 (28) Submit any matter to the advisory board for study, review or recommendation;

14 (29) Request and/or approve or disapprove recommendations by the cannabis advisory
15 board made pursuant to § 21-28.11-6 to include, but not be limited to, distribution of funds from
16 the social equity assistance fund established pursuant to § 21-28.11-31;

17 (30) Monitor any federal activity regarding cannabis;

18 (31) Delegate any administrative, procedural or operational matter to the cannabis office;

19 (32) Issue temporary emergency orders, directives or instructions, with or without prior
20 notice or hearing, in an instance in which the public health or safety is in substantial or imminent
21 danger as it relates to the activities, conduct or practices of a licensee or as a result of a defective
22 or dangerous product offered for sale by a licensee. If a temporary emergency order, directive or
23 instruction without notice or a hearing is issued by the commission then the order, directive or
24 instruction shall expire after ten (10) days unless a hearing is noticed by the commission within the
25 ten (10) day period, and the hearing is scheduled to be conducted within twenty (20) days of the
26 issuance of the order, directive or instruction;

27 (33) Amend forms, procedures and requirements adopted by the office of cannabis
28 regulation pursuant to § 21-28.11-10.1 related to the temporary regulation of cultivation,
29 manufacture and sale of cannabis for adult use by hybrid cannabis retailers during the transitional
30 period established by § 21-28.11-10.1; and

31 (34) Provide recommendations to the general assembly regarding any advisable or
32 proposed amendments to chapter 26 of title 2 relative to the regulation of industrial hemp and the
33 use of hemp as a commercial product.

34 (b) The commission shall, pursuant to subsection (a) of this section, adopt rules and

1 regulations consistent with this chapter for the administration, clarification and enforcement of
2 provisions regulating and licensing cannabis establishments and the sale, possession and use of
3 cannabis. The rules and regulations shall include, but not be limited to:

4 (1) Methods and forms of application which an applicant for a license shall follow and
5 complete before consideration by the commission;

6 (2) Requirements for the information to be furnished by an applicant or licensee;

7 (3) Criteria for evaluation of the application for a license;

8 (4) Qualifications for licensure and minimum standards for employment that are directly
9 and demonstrably related to the operation of a cannabis establishment and similar to qualifications
10 for licensure and employment standards in connection with the manufacture, distribution or sale of
11 alcoholic beverages as regulated under title 3 of the general laws; provided, that a criminal
12 conviction relating solely to the possession of marijuana or cannabis shall not automatically
13 disqualify an individual from eligibility for employment or licensure in connection with a cannabis
14 establishment pursuant to § 21-28.11-12.1;

15 (5) In consultation with the cannabis advisory board, identification of factors to be
16 evaluated in the approval and certification of social equity applicants and establishment of
17 procedures and policies to promote and encourage full participation in the regulated cannabis
18 industry by people from communities that have previously been disproportionately harmed by
19 cannabis prohibition and enforcement;

20 (6) In accordance with all applicable law, standards for the payment or reporting of
21 licensure fees and taxes;

22 (7) Requirements for the information to be furnished by a licensee to the licensee's
23 employees;

24 (8) Requirements for fingerprinting or other method of identification of an applicant for a
25 license or a licensee and the employees of licensees;

26 (9) Procedures and grounds for the revocation or suspension of a license or registration;

27 (10) Minimum uniform standards of accounting procedures;

28 (11) Requirements for record keeping by cannabis establishments and procedures to track
29 cannabis cultivated, processed, manufactured, delivered or sold by cannabis establishments;

30 (12) Minimum standards for the requirement that all licensees possess and operate an
31 interoperable publicly available application programming interface seed-to-sale tracking system
32 sufficient to ensure the appropriate track and trace of all cannabis cultivated, processed or
33 manufactured pursuant to this chapter;

34 (13) Standards and procedures to leverage seed-to-sale tracking technology which may

1 allow for the appropriate transfer or acquisition of cannabis seeds, clones, cuttings, plants or plant
2 tissue between medical and nonmedical establishments;

3 (14) Registration requirements for employees of cannabis establishments including
4 ensuring that employees be properly trained in the performance of their duties as necessary;

5 (15) Minimum security requirements for licensees sufficient to deter and prevent theft and
6 unauthorized entrance into areas containing cannabis, which may include, but not be limited to, the
7 use of security personnel, security cameras, or alarms;

8 (16) Minimum standards for liability insurance coverage;

9 (17) Requirements and procedures, utilizing best practices, to prevent the sale, delivery or
10 transfer of cannabis to persons under twenty-one (21) years of age, or the purchase of cannabis on
11 behalf of a person under twenty-one (21) years of age to include, but not limited to, the
12 establishment of age verification procedures;

13 (18) Health and safety standards, established in consultation with the department of health,
14 for the cultivation, processing, manufacturing and distribution of cannabis, including standards
15 regarding sanitation for the preparation, storage, handling and sale of food products, including
16 compliance with state sanitation requirements, and health inspections; provided, however, that the
17 authority to promulgate regulations pertaining to the use of pesticides shall remain with the
18 department of environmental management pursuant to the provisions of chapter 25 of title 23;

19 (19) Requirements for the packaging and labeling of cannabis and cannabis products that
20 shall, at a minimum:

21 (i) Require the most current consumer product safety commission standards, set forth in 16
22 C.F.R. 1700 et seq.; and

23 (ii) Protect children from accidentally ingesting cannabis or cannabis products, including by
24 making packaging certified tamper or child-resistant and resealable if intended for multiple uses in
25 packaging that is opaque or plain in design and otherwise complies with the following
26 requirements:

27 (A) Tamper or child-resistant packaging shall be in compliance with the poison prevention
28 packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR
29 1700 and as may be amended from time to time;

30 (B) Where compliance with tamper or child-resistant packaging is deemed unreasonable,
31 cannabis products shall be placed in an exit bag that is capable of being resealed and made tamper
32 or child-resistant resistant again after it has been opened;

33 (C) The packaging includes the following statement, including capitalization, in at least ten
34 (10) point font: KEEP OUT OF REACH OF CHILDREN;

1 (D) Packaging for marijuana products sold or displayed for consumers, including any label
2 or imprint affixed to any packaging containing marijuana products or any exit packages, shall not
3 be attractive to minors;

4 (E) Packaging is explicitly prohibited from:

5 (I) Using bright colors, defined as colors that are "neon" in appearance;

6 (II) Imitating or having a resemblance to any existing branded consumer products,
7 including foods and beverages, that do not contain marijuana;

8 (III) Featuring cartoons;

9 (IV) Featuring a design, brand or name that resembles a non-cannabis consumer product
10 of the type that is typically marketed to minors;

11 (V) Featuring symbols or celebrities that are commonly used to market products to minors;

12 (VI) Featuring images of minors; or

13 (VII) Featuring words that refer to products that are commonly associated with minors or
14 marketed to minors;

15 (F) Prior to marijuana being sold or transferred a marijuana cultivator shall ensure the
16 placement of a legible, firmly affixed label on which the wording is no less than one sixteenth inch
17 (1/16") in size on each package of marijuana that it makes available for retail sale, containing at a
18 minimum the following information:

19 (I) The name and registration number of the marijuana cultivator that produced the
20 marijuana, together with the retail licensee's business telephone number, electronic mail address,
21 and website information, if any;

22 (II) The quantity of usable marijuana contained within the package;

23 (III) The date that the marijuana retailer or marijuana cultivator packaged the contents and
24 a statement of which licensee performed the packaging;

25 (IV) A batch number, sequential serial number, and bar code when used, to identify the
26 batch associated with manufacturing and processing;

27 (V) The full cannabinoid profile of the marijuana contained within the package, including
28 THC and other cannabinoid level;

29 (VI) A statement and a seal certifying that the product has been tested for contaminants
30 with no adverse findings, and the date of testing;

31 (VII) This statement, including capitalization: "This product has not been analyzed or
32 approved by the FDA. There is limited information on the side effects of using this product, and
33 there may be associated health risks. Cannabis use during pregnancy and breast-feeding may pose
34 potential harms. It is against the law to drive or operate machinery when under the influence of this

1 product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

2 (VIII) The following symbol or easily recognizable mark issued by the commission that
3 indicates the package contains marijuana product:



4
5 (IX) The following symbol or other easily recognizable mark issued by the commission
6 that indicates that the product is harmful to children:



7
8 (G) The packaging requirements of this subsection shall not apply to cannabis packaged
9 by a cannabis cultivator for transport to a cannabis retailer; provided, however, that the retailer is
10 responsible for compliance with this subsection for all marijuana products sold or displayed for
11 consumers.

12 (20) Requirements and restrictions for advertising, marketing and branding of cannabis and
13 cannabis products;

14 (21) Requirements for the safe disposal of excess, contaminated, adulterated or deteriorated
15 cannabis, which shall consider policies which promote the reasonable remediation and/or recycling
16 of such waste, including, but not limited to, recycled industrial products

17 (22) Procedures and requirements to enable the transfer of a license for a cannabis
18 establishment to another qualified person or to another suitable location in compliance with the
19 provisions of § 21-28.11-10.2 following notification and approval by the commission; provided
20 however, that a license issued to a social equity applicant shall only be transferred to another
21 qualified social equity applicant, and a license issued to a workers' cooperative applicant shall only
22 be transferred to another qualified workers' cooperative applicant;

23 (23) Requirements to establish a process allowing the commission to order a prohibition
24 on the sale of a cannabis product found especially appealing to persons under twenty-one (21) years
25 of age including a means for allowing a cannabis product manufacturer to voluntarily submit a
26 product, its packaging and intended marketing to the commission for preliminary determination
27 whether the product is especially appealing to persons under twenty-one (21) years of age;

28 (24) Requirements that may prohibit cannabis product manufacturers from altering or
29 utilizing commercially-manufactured food products when manufacturing cannabis products unless

1 the food product was commercially manufactured specifically for use by the cannabis product
2 manufacturer to infuse with cannabis;

3 (25) Energy and environmental standards for licensure and licensure renewal of cannabis
4 establishments licensed as a cannabis cultivator or cannabis product manufacturer;

5 (26) If determined necessary to protect or promote public health and safety, the commission
6 may establish reasonable limits for cannabis product potency and/or dosing; provided that, in the
7 interest of maintaining a stable cannabis market, before imposing such limits, the commission shall
8 give due consideration to the limits on potency and/or dosing imposed by neighboring states;

9 (27) The testing and safety of cannabis and cannabis products, including but not limited to,
10 regulations promulgated by the commission in consultation with the department of health, as
11 applicable which:

12 (i) License and regulate the operation of cannabis laboratory testing facilities, including
13 requirements for equipment, training, and qualifications for personnel;

14 (ii) Set forth procedures that require random sample testing to ensure quality control,
15 including, but not limited to, ensuring that cannabis and cannabis products are accurately labeled
16 for tetrahydrocannabinol (THC) content and any other product profile;

17 (iii) Establish testing for residual solvents or toxins; harmful chemicals; dangerous molds
18 or mildew; filth; and harmful microbials such as E. coli or salmonella and pesticides, and any other
19 compounds, elements, or contaminants;

20 (iv) Require that all cannabis and cannabis products must undergo random sample testing
21 at a licensed cannabis testing facility or other laboratory equipped to test cannabis and cannabis
22 products that have been approved by the commission;

23 (v) Require any products which fail testing be quarantined and/or recalled and destroyed
24 in accordance with regulations;

25 (vi) Allow for the establishment of other quality assurance mechanisms which may include
26 but not be limited to, the designation or creation of a reference laboratory, creation of a secret
27 shopper program, round robin testing, or any other mechanism to ensure the accuracy of product
28 testing and labeling;

29 (vii) Require cannabis establishment licensees and cannabis products to comply with any
30 applicable food safety requirements determined by the commission and/or the department of health;

31 (viii) Include any additional requirements deemed necessary by the commission as
32 determined in consultation with the department of health; and

33 (ix) Allow the commission, in coordination with the department of health, at their
34 discretion, to temporarily remove, or phase in, any requirement for laboratory testing if it finds that

1 there is not sufficient laboratory capacity for the market;

2 (28) Standards and restrictions for cannabis manufacturing and processing which shall
3 include, but not be limited to, requirements that cannabis processors:

4 (i) Comply with all applicable building and fire codes;

5 (ii) Receive approval from the state fire marshal's office for all forms of manufacturing
6 that use a heat source or flammable solvent;

7 (iii) Require any cannabis processor that manufactures edibles of cannabis infused food
8 products to comply with all applicable requirements and regulations and obtain a food business
9 license as defined by § 21-27-1 issued by the department of health's office of food safety; and

10 (iv) Comply with any other requirements deemed suitable by the commission;

11 (29) Standards for manufacturing or extracting cannabinoid oils or butane hash oil;

12 (30) General operating requirements, minimum oversight, and any other activities,
13 functions, or aspects of a cannabis establishment licensee in furtherance of creating a stable,
14 regulated cannabis industry and mitigating its impact on public health and safety;

15 (31) Rules and regulations based on federal law, provided such rules and regulations are
16 designed to comply with federal guidance and mitigate federal enforcement against the cannabis
17 establishments and adult use establishments authorized, licensed and operated pursuant to this
18 chapter;

19 (32) Coordinate and implement the transition and transfer of regulatory authority of
20 medical marijuana from the department of business regulation to the commission; and

21 (33) Requirements that, after March 1, 2023, according to a timeline determined by the
22 commission, patients with out-of-state medical marijuana cards must also possess and produce a
23 valid government issued identification demonstrating residency in the same state jurisdiction that
24 issued the medical marijuana card.

25 (c) Regulations made pursuant to this section shall not:

26 (1) Except to protect public health and safety, prohibit the operation of a cannabis
27 establishment either expressly or through regulations that make operation of a cannabis
28 establishment unreasonable and impracticable;

29 (2) Require an adult retail purchaser to provide a cannabis retailer with identifying
30 information other than proper identification to determine the customer's age, and shall not require
31 the cannabis retailer to acquire or record personal information about customers other than
32 information typically required in a retail transaction;

33 (3) Except as provided pursuant to chapter 28.6 of this title, authorize a cannabis retailer,
34 medical marijuana treatment center or a hybrid cannabis retailer to operate at a shared location with

1 a cultivator;

2 (4) Authorize a cannabis establishment to transfer or acquire cannabis seeds, clones,
3 cuttings, plants or plant tissue to or from another cannabis establishment unless notice of the
4 transfer or acquisition is provided to the commission; or

5 (5) Prohibit cannabis establishments from using inorganic cultivation methods.

6 (d) **Reports.** In furtherance of the intent of this chapter:

7 (1) The commission shall annually submit a complete and detailed report of the
8 commission's activities, including a review of the implementation and enforcement of this chapter
9 and the governance structure established in this chapter, not more than ninety (90) days after the
10 end of the fiscal year to the governor, the attorney general, the treasurer, the speaker of the house,
11 and the president of the senate.

12 (2) The commission shall annually review the tax rates established by this chapter and may
13 make recommendations to the general assembly, as appropriate, regarding any changes to the tax
14 rates that further the intent of this chapter.

15 (3) Each fiscal year the commission shall submit an annual finance plan to the governor,
16 the speaker of the house and the president of the senate, and updates to such plan.

17 (4) The commission may study cannabis commerce and make recommendations to the
18 general assembly regarding changes to existing law that further the intent of this chapter by
19 reporting those recommendations to the governor, the speaker of the house, and the president of
20 the senate.

21 (5) The commission may conduct an analysis and report to the general assembly if it finds
22 that conditions are appropriate for the issuance of additional types or classes of licenses to operate
23 cannabis-related businesses, including, but not limited to:

24 (i) Licenses that authorize limited or restricted cultivation, processing, manufacture,
25 possession or storage of cannabis or cannabis products, limited delivery of cannabis or cannabis
26 products to consumers;

27 (ii) Licenses that authorize the consumption of cannabis or cannabis products on the
28 premises where sold;

29 (iii) Licenses that authorize the consumption of cannabis at special events in limited areas
30 and for a limited time; and

31 (iv) Licenses intended to facilitate scientific research or education.

32 (e) The commission shall administer and enforce the provisions of this chapter and the rules
33 and regulations relating to licensing in this chapter and in its discretion and where appropriate may
34 delegate and authorize various administration and enforcement powers and duties to the cannabis

1 office.

2 (f) The commission may investigate, in conjunction with the department of health, the
3 effects of cannabis and cannabis products with a high potency of tetrahydrocannabinol on human
4 health and consider restrictions on the potency of tetrahydrocannabinol in cannabis and cannabis
5 products that are necessary for protection of public health or safety in accordance with the
6 provisions of subsection (b)(26) of this section.

7 (g) The commission shall be subject to all the provisions of chapter 35 of title 42.

8 (h) The commission shall cause to be deposited all fees and monetary penalties collected
9 pursuant to this chapter in the social equity assistance fund established pursuant to § 21-28.11-31,
10 excluding medical compassion center license fees pursuant to § 21-28.6-12, tax penalties and any
11 funds designated to be deposited in the marijuana trust fund pursuant to § 21-28.11-13(d).

12 (i) The commission shall work collaboratively with other state agencies and departments
13 to ensure that the production and distribution of cannabis is effectively regulated in the state in
14 furtherance of this chapter.

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS -- THE RHODE ISLAND CANNABIS ACT

1 This act would provide for specific restrictions and requirements for cannabis packaging
2 that would protect children from gaining access to packaging and from being drawn to packaging
3 that appeals to children.

4 This act would take effect upon passage.

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