

2025 -- S 0542

LC000597

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT --  
OFFENCES AND PENALTIES

Introduced By: Senators Bell, Mack, and Quezada

Date Introduced: February 26, 2025

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28-4.01, 21-28-4.01.1, 21-28-4.01.2, 21-28-4.02, 21-28-4.03,  
2 21-28-4.05, 21-28-4.06, 21-28-4.09, 21-28-4.11, 21-28-4.13, 21-28-4.14, 21-28-4.15, and 21-28-  
3 4.18 of the General Laws in Chapter 21-28 entitled “Uniform Controlled Substances Act – Offenses  
4 and Penalties” are hereby amended to read as follows

5 **21-28-4.01. Prohibited acts A — Penalties.**

6 (a)(1) Except as authorized by this chapter and chapters 28.6 and 28.11 of title 21, it shall  
7 be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver  
8 a controlled substance.

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

14 (3) Where the deliverance as prohibited in this subsection shall be the proximate cause of  
15 death to the person to whom the controlled substance is delivered, it shall not be a defense that the  
16 person delivering the substance was, at the time of delivery, a drug-addicted person as defined in §  
17 21-28-1.02.

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

1 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)~~ five (5) years, or fined not more than  
4 ~~one 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)~~ five (5) years, or fined not more than  
7 ~~forty thousand dollars (\$40,000)~~ ten thousand dollars (\$10,000), or both; provided, with respect to  
8 a controlled substance classified in schedule III(d), upon conviction may be imprisoned for not  
9 more than ~~five (5)~~ three (3) years, or fined not more than ~~twenty thousand dollars (\$20,000)~~ five  
10 thousand dollars (\$5,000), or both.

11 (iii) A controlled substance, classified in schedule V, is guilty of a crime and, upon  
12 conviction, may be imprisoned for not more than ~~one year~~ six (6) months, or fined not more than  
13 ~~ten thousand dollars (\$10,000)~~ three thousand dollars (\$3,000), or both.

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

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

17 (i) A counterfeit substance, classified in schedule I or II, is guilty of a crime and, upon  
18 conviction, may be imprisoned for not more than ~~thirty (30)~~ five (5) years, or fined not more than  
19 ~~one hundred thousand dollars (\$100,000)~~ ten thousand dollars (\$10,000), or both;

20 (ii) A counterfeit substance, classified in schedule III or IV, is guilty of a crime and, upon  
21 conviction, may be imprisoned for not more than ~~twenty (20)~~ five (5) years, or fined not more than  
22 ~~forty thousand dollars (\$40,000)~~ ten thousand dollars (\$10,000), or both; provided, with respect to  
23 a controlled substance classified in schedule III(d), upon conviction may be imprisoned for not  
24 more than ~~five (5)~~ two (2) years, or fined not more than ~~twenty thousand dollars (\$20,000)~~ three  
25 thousand dollars (\$3,000), or both.

26 (iii) A counterfeit substance, classified in schedule V, is guilty of a crime and, upon  
27 conviction, may be imprisoned for not more than ~~one year~~ six (6) months, or fined not more than  
28 ~~ten thousand dollars (\$10,000)~~ three thousand dollars (\$3,000), or both.

29 (c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled  
30 substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or  
31 order of a practitioner while acting in the course of his or her professional practice, or except as  
32 otherwise authorized by this chapter or chapters 28.6 and 28.11 of title 21.

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

34 (i) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, ten grams (10 g.) or

1 less of a mixture or substance containing a detectable amount of a controlled substance classified  
2 in schedules I, II, III, IV, and V, except buprenorphine and the substance classified as marijuana,  
3 is guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than ~~two (2)~~  
4 ~~years~~ six (6) months, or fined not more than five hundred dollars (\$500) or both.

5 (ii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than ten grams  
6 (10 g.), but less than one ounce (1 oz.) of a mixture or substance containing a detectable amount of  
7 a controlled substance classified in schedules I, II and III, IV, and V, except buprenorphine and the  
8 substance classified as marijuana, is guilty of a ~~felony~~ misdemeanor and, upon conviction, may be  
9 imprisoned for not more than ~~three (3) years~~ three hundred sixty-four days (364), or fined not more  
10 than ~~five thousand dollars (\$5,000)~~ two thousand five hundred dollars (\$2,500), or both.

11 (iii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than two  
12 ounces (2 oz.) or the equivalent amount in the form of cannabis concentrate of a controlled  
13 substance classified in schedule I as marijuana is guilty of a misdemeanor unless possessed inside  
14 one's own primary residence, except for those persons subject to (a)(1), and, upon conviction, may  
15 be imprisoned for not more than ~~one year~~ six (6) months, or fined not more than five hundred  
16 dollars (\$500), or both. Exclusive of live marijuana plants, more than ten ounces (10 oz.) of a  
17 controlled substance classified in schedule I as marijuana or the equivalent amount in the form of  
18 cannabis concentrate, when possessed within one's personal residence is guilty of a misdemeanor,  
19 except for those persons subject to (a)(1), and, upon conviction, may be imprisoned for not more  
20 than ~~one year~~ six (6) months, or fined not less than two hundred dollars (\$200) nor more than five  
21 hundred dollars (\$500), or both.

22 Possession of live marijuana plants in excess of the number authorized pursuant to § 21-  
23 28.11-22 but less than twenty-five (25) marijuana plants is guilty of a misdemeanor, except for  
24 those persons subject to (a)(1) and, upon conviction, may be imprisoned for not more than ~~one year~~  
25 six (6) months, or fined not less than two hundred dollars (\$200) nor more than five hundred dollars  
26 (\$500), or both.

27 Possession of twenty-five (25) or more live marijuana plants is guilty of a ~~felony~~  
28 misdemeanor, except for those persons subject to (a)(1), and upon conviction, may be imprisoned  
29 for not more than ~~three (3) years~~ three hundred sixty-four (364) days or fined not more than ~~five~~  
30 ~~thousand dollars (\$5,000)~~ two thousand five hundred dollars (\$2,500), or both.

31 (iv) Notwithstanding any public, special, or general law to the contrary, and except as  
32 otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, the possession of more than one ounce (1  
33 oz.) but not more than two ounces (2 oz.) of marijuana or the equivalent amount in the form of  
34 cannabis concentrate by a person who is at least twenty-one (21) years old, and who is not exempted

1 from penalties pursuant to chapter 28.6 of this title, shall constitute a civil offense, rendering the  
2 offender liable to a civil penalty in the amount of ~~one hundred fifty dollars (\$150)~~ one hundred  
3 dollars (\$100) and forfeiture of the marijuana, but not to any other form of criminal or civil  
4 punishment or disqualification. Notwithstanding any public, special, or general law to the contrary,  
5 this civil penalty of ~~one hundred fifty dollars (\$150)~~ one hundred dollars (\$100) and forfeiture of  
6 the marijuana shall apply if the offense is the first (1st) or second (2nd) violation within the previous  
7 eighteen (18) months.

8 (v) Notwithstanding any public, special, or general law to the contrary, possession of two  
9 ounces (2 oz.) or less of marijuana or the equivalent amount in the form of cannabis concentrate by  
10 a person between seventeen (17) and twenty (20) years old, and who is not exempted from penalties  
11 pursuant to chapter 28.6 of this title, shall constitute a civil offense, rendering the offender liable to  
12 a civil penalty in the amount of ~~one hundred fifty dollars (\$150)~~ one hundred dollars (\$100) and  
13 forfeiture of the marijuana; provided the minor offender completes an approved, drug-awareness  
14 program and community service as determined by the court. If the person seventeen (17) years of  
15 age or older and under the age of eighteen (18) years fails to complete an approved, drug-awareness  
16 program and community service within one year of the disposition, the penalty shall be a ~~three~~  
17 ~~hundred dollar (\$300)~~ two hundred dollar (\$200) civil fine and forfeiture of the marijuana, except  
18 that if no drug-awareness program or community service is available, the penalty shall be a fine of  
19 ~~one hundred fifty dollars (\$150)~~ one hundred dollars (\$100) and forfeiture of the marijuana. The  
20 parents or legal guardian of any offender seventeen (17) years of age or older and under the age of  
21 eighteen (18) shall be notified of the offense and the availability of a drug-awareness and  
22 community-service program. The drug-awareness program must be approved by the court, but  
23 shall, at a minimum, provide four (4) hours of instruction or group discussion and ten (10) hours of  
24 community service. Notwithstanding any other public, special, or general law to the contrary, this  
25 civil penalty shall apply if the offense is the first or second violation within the previous eighteen  
26 (18) months.

27 (vi) [Deleted by P.L. 2022, ch. 31, § 10 and P.L. 2022, ch. 32, § 10.]

28 (vii) Any unpaid civil fine issued under (c)(2)(iv) or (c)(2)(v) shall double to ~~three hundred~~  
29 ~~dollars (\$300)~~ two hundred dollars (\$200) if not paid within thirty (30) days of the disposition. The  
30 civil fine shall double again to ~~six hundred dollars (\$600)~~ four hundred dollars (\$400) if it has not  
31 been paid within ninety (90) days.

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

1 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 more than one ounce  
3 (1 oz.) of marijuana, or the equivalent amount in the form of cannabis concentrate or any person  
4 without any such forms of identification who fails or refuses to truthfully provide his or her name,  
5 address, and date of birth to a police officer who has informed such person that the officer intends  
6 to provide such individual with a citation for possession of more than one ounce (1 oz.) but less  
7 than two ounces (2 oz.) of marijuana or the equivalent amount in the form of cannabis concentrate,  
8 may be arrested.

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

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

14 (3) **Jurisdiction.**

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

18 (ii) Any and all violations of (c)(2)(iv) and (c)(2)(v) shall be the exclusive jurisdiction of  
19 the Rhode Island traffic tribunal. All money associated with the civil fine issued under (c)(2)(iv) or  
20 (c)(2)(v) shall be payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines  
21 collected by the Rhode Island traffic tribunal from civil penalties issued pursuant to (c)(2)(iv) or  
22 (c)(2)(v) 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 (c)(2)(ii) or convicted or who pleads nolo contendere a second or subsequent time under (c)(2)(iii),  
25 who is not 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  
29 (BHDDH) similar to that in § 21-28.11-27.2, and pay the sum of four hundred dollars (\$400) to  
30 help defray the costs of this program which shall be deposited as general revenues. Failure to attend  
31 may result, after hearing by the court, in jail 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), (c)(2)(ii) or (c)(2)(iii) shall be subject to a loss of license for a period of six (6)  
3 months for a first offense and one year for each offense after.

4 (5) All fees assessed and collected pursuant to (c)(2)(iii) 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)~~ ten thousand dollars (\$10,000).

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~~ six (6) months, or fined not more than ~~one thousand dollars~~  
27 ~~(\$1,000)~~ five hundred dollars (\$500), or both. The provisions of this section shall not apply to  
28 licensed physicians, pharmacists, and accredited hospitals and teaching facilities engaged in the  
29 research or study of salvia divinorum or datura stramonium and shall not apply to any person  
30 participating in clinical trials involving the use of salvia divinorum or datura stramonium.

31 **21-28-4.01.1. Certain quantities of controlled substances.**

32 (a) Except as authorized by this chapter, it shall be unlawful for any person to manufacture,  
33 sell, or possess with intent to manufacture or sell, a controlled substance classified in schedule I or  
34 II (excluding marijuana) or to possess or deliver the following enumerated quantities of certain

1 controlled substances:

2 (1) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a  
3 detectable amount of heroin;

4 (2) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a  
5 detectable amount of:

6 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,  
7 ecgonine, and derivatives of ecgonine or their salts have been removed;

8 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

9 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

10 (iv) Any compound, mixture, or preparation that contains any quantity of any of the  
11 substances referred to in paragraphs (i) — (iii) of this subdivision;

12 (3) One gram (1 g.) to ten grams (10 gs.) of phencyclidine (PCP) or one hundred (100) to  
13 one thousand (1,000) tablets of a mixture or substance containing a detectable amount of  
14 phencyclidine (PCP);

15 (4) One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD) or  
16 one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a detectable  
17 amount of lysergic acid diethylamide (LSD);

18 (5) ~~One kilogram (1 kg.) to five kilograms (5 kgs.) of a mixture containing a detectable~~  
19 ~~amount of marijuana;~~

20 (6) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a  
21 detectable amount of synthetic drugs; or

22 (7) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a  
23 detectable amount of fentanyl or its analogs, including, but not limited to: N-(1-phenethylpiperidin-  
24 4-yl)-N-phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers  
25 (acetyl fentanyl); N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2carboxamide (furanyl fentanyl);  
26 and N-Phenethyl-4-piperidinone (4-AN-PP); or

27 (8) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a  
28 detectable amount of carfentanil; or

29 (9) One ounce (1 oz.) to one kilogram (1 kg.) of 3,4-methyl-enedioxymethamphetamine  
30 (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers; or

31 (10) One ounce (1 oz.) to one kilogram (1 kg.) of amphetamine, its salts, optical isomers,  
32 and salts of its optical isomers; or

33 (11) One ounce (1 oz.) to one kilogram (1 kg.) of methamphetamine, its salts, and salts of  
34 its isomers.

1 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,  
2 may be imprisoned for a term up to ~~fifty (50)~~ ten (10) years and fined not more than ~~five hundred~~  
3 ~~thousand dollars (\$500,000)~~ ten thousand dollars (\$10,000).

4 **21-28-4.01.2. Certain quantities of controlled substances.**

5 (a) Except as authorized by the chapter, it shall be unlawful for any person to possess,  
6 manufacture, sell, or deliver the following enumerated quantities of certain controlled substances:

7 (1) More than one kilogram (1 kg.) of a mixture or substance containing a detectable  
8 amount of heroin;

9 (2) More than one kilogram (1 kg.) of a mixture or substance containing a detectable  
10 amount of:

11 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,  
12 ecgonine, and derivatives of ecgonine or their salts have been removed;

13 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

14 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

15 (iv) Any compound, mixture, or preparation that contains any quantity of any of the  
16 substances referred to in paragraphs (i) — (iii) of this subdivision;

17 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand (1,000)  
18 tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

19 (4) More than one gram (1 g.) of lysergic acid diethylamide (LSD); or more than one  
20 thousand (1,000) tablets of a mixture or substance containing a detectable amount of lysergic acid  
21 diethylamide (LSD);

22 (5) ~~More than five kilograms (5 kgs.) of a mixture containing a detectable amount of~~  
23 ~~marijuana;~~

24 (6) More than one kilogram (1 kg.) of a mixture or substance containing a detectable  
25 amount of synthetic drugs; or

26 (7) More than one kilogram (1 kg.) of a mixture or substance containing a detectable  
27 amount of fentanyl or its analogs, including, but not limited to: N-(1-phenethylpiperidin-4-yl)-N-  
28 phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers (acetyl  
29 fentanyl); N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2carboxamide (furanlyl fentanyl); and N-  
30 Phenethyl-4-piperidinone (4-AN-PP); or

31 (8) More than one kilogram (1 kg.) of a mixture or substance containing a detectable  
32 amount of carfentanil; or

33 (9) More than one kilogram (1 kg.) of 3,4-methyl-enedioxymethamphetamine (MDMA),  
34 its optical, positional, and geometric isomers, salts, and salts of isomers; or



1 (10) More than one kilogram (1 kg.) of amphetamine, its salts, optical isomers, and salts of  
2 its optical isomers; or

3 (11) More than one kilogram (1 kg.) of methamphetamine, its salts, and salts of its isomers.

4 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,  
5 may be imprisoned for a term up to ~~five~~ ten (10) years and fined not more than ~~one million twenty~~  
6 thousand dollars ~~(\$1,000,000)~~ (\$20,000).

7 **21-28-4.02. Prohibited acts B — Penalties.**

8 (a) It shall be unlawful for any person:

9 (1) Who is subject to article III to distribute or dispense a controlled substance in violation  
10 of § 21-28-3.18;

11 (2) Who is a registrant to manufacture a controlled substance not authorized by his or her  
12 registration, or to distribute or dispense a controlled substance not authorized by his or her  
13 registration to another registrant or other authorized person;

14 (3) To refuse or fail to make, keep, or furnish any record, notification, order form,  
15 statement, invoice or information required under this chapter;

16 (4) To refuse an entry into any premises for any inspection authorized by this chapter.

17 (b) Any person who violates this section is guilty of a crime and upon conviction may be  
18 imprisoned for not more than ~~five (5)~~ two (2) years, or fined not more than ~~five thousand dollars~~  
19 ~~(\$5,000)~~ two thousand dollars (\$2,000), or both.

20 **21-28-4.03. Prohibited acts C — Penalties.**

21 (a) It is unlawful for any person knowingly or intentionally:

22 (1) To distribute as a registrant a controlled substance, except pursuant to an order form as  
23 required by § 21-28-3.10;

24 (2) To use in the course of the manufacture or distribution of a controlled substance a  
25 registration number, which is fictitious, revoked, suspended, or issued to another person;

26 (3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud,  
27 forgery, deception, or subterfuge;

28 (4) To furnish false or fraudulent material information in, or omit any material information  
29 from, any application, report, or other document required to be kept or filed under this chapter or  
30 any record required to be kept by this chapter; or

31 (5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to  
32 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device  
33 of another or any likeness of any of these upon any drug or container or labeling of the drug or  
34 container so as to render the drug a counterfeit substance.

1 (b) Any person who violates this chapter is guilty of a crime and upon conviction may be  
2 imprisoned for not more than ~~five (5)~~ two (2) years, or fined not more than ~~five thousand dollars~~  
3 ~~(\$5,000)~~ two thousand dollars (\$2,000), or both.

4 **21-28-4.05. Prohibited acts E — False representations to obtain controlled substances.**

5 (a) No person shall obtain or attempt to obtain a controlled substance or procure or attempt  
6 to procure the administration of a controlled substance:

7 (1) By fraud, deceit, misrepresentation, or subterfuge;

8 (2) By the forgery or alteration of a prescription or of any written order;

9 (3) By the concealment of material fact; or

10 (4) By the use of a false name or the giving of a false address.

11 (b) Information communicated to a physician in an unlawful effort to procure the  
12 administration of a controlled substance shall not be deemed a privileged communication.

13 (c) No person shall willfully make a false statement in any prescription, order, report, or  
14 record, required by this chapter.

15 (d) No person shall, for the purpose of obtaining a controlled substance, falsely assume the  
16 title of, or represent himself or herself to be, a manufacturer, wholesaler, practitioner, or other  
17 authorized person.

18 (e) No person shall make or utter any false or forged prescription or false or forged written  
19 order for controlled substances.

20 (f) No person shall affix any false or forged label to a package or receptacle containing  
21 controlled substances.

22 (g) Any person who violates this section is guilty of a crime and upon conviction may be  
23 imprisoned for not more than ~~five (5)~~ two (2) years, and fined not more than ~~ten thousand dollars~~  
24 ~~(\$10,000)~~ two thousand dollars (\$2,000), or both.

25 **21-28-4.06. Prohibited acts F — Places used for unlawful sale, use, or keeping of**  
26 **controlled substances.**

27 (a) Any store, shop, warehouse, building, vehicle, aircraft, vessel, or any place which is  
28 used for the unlawful sale, use, or keeping of a controlled substance shall be deemed a common  
29 nuisance.

30 (b) Any person who violates this section with respect to:

31 (1) Knowingly keeping and maintaining a common nuisance as described in subsection (a)  
32 may be imprisoned for not more than ~~five (5)~~ two (2) years, and fined not more than ~~five thousand~~  
33 ~~dollars (\$5,000)~~ two thousand dollars (\$2,000), or both;

34 (2) Knowingly permitting any store, shop, warehouse, building, vehicle, aircraft, vessel, or

1 any place which is owned or controlled by him or her to be used as a common nuisance may be  
2 imprisoned for not more than ~~fifteen (15)~~ four (4) years, and fined not more than ~~twenty thousand~~  
3 ~~dollars (\$20,000)~~ five thousand dollars (\$5,000), or both;

4 (3) Knowingly visiting a common nuisance as described in subsection (a) for the purpose  
5 of using or taking in any manner any controlled substance may be imprisoned for not more than  
6 ~~one year~~ six (6) months and fined not more than five hundred dollars (\$500).

7 **21-28-4.09. General penalty clause.**

8 Any person who violates any provision of this chapter, the penalty for which is not  
9 specified in this chapter, and of the rules and regulations of the director of health made under  
10 authority of this chapter, shall be sentenced to a term of imprisonment of not more than ~~one year~~  
11 six (6) months, a fine of five hundred dollars (\$500), or both.

12 **21-28-4.11. Second offenses.**

13 (a) Any person convicted of a second offense under this chapter, except for violations of §  
14 21-28-4.01(c)(2)(i), § 21-28-4.01(c)(2)(iii), § 21-28-4.01(c)(2)(iv), § 21-28-4.01(c)(2)(v), or § 21-  
15 28-4.01(c)(2)(vi), may be imprisoned for a term that may be increased by twenty-five percent  
16 (25%) of ~~up to twice~~ the term authorized, fined an additional twenty-five percent (25%) of ~~amount~~  
17 ~~up to twice~~ that authorized, or both.

18 (b) For purposes of this section, an offense is considered a second offense if, prior to his or  
19 her conviction of the offense, the offender has at any time been convicted under this chapter, except  
20 for violations of § 21-28-4.01(c)(2)(i), § 21-28-4.01(c)(2)(iii), § 21-28-4.01(c)(2)(iv), § 21-28-  
21 4.01(c)(2)(v), or § 21-28-4.01(c)(2)(vi), or under any statute of the United States or of any state  
22 relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

23 **21-28-4.13. Impersonation of health officials — Penalties.**

24 Every person who shall falsely assume or pretend to be the director of health or an officer,  
25 agent, inspector, or representative designated by the director as having enforcement powers shall  
26 be imprisoned not exceeding ~~one year~~ six (6) months and/or be fined not exceeding five hundred  
27 dollars (\$500).

28 **21-28-4.14. Third or subsequent offenses.**

29 (a) Any person convicted of a third or subsequent offense under this chapter, except for  
30 violations of § 21-28-4.01(c)(2)(iv), § 21-28-4.01(c)(2)(v), or § 21-28-4.01(c)(2)(vi), may be  
31 imprisoned for a term that may be increased by fifty percent (50%) of ~~up to three (3) times~~ the  
32 term authorized, and fined an additional fifty percent (50%) of ~~amount up to three (3) times~~ that  
33 authorized by § 21-28-4.11, or both.

34 (b) For purposes of this section, an offense is considered a third or subsequent offense if,

1 prior to his or her conviction of the offense, the offender has at any time been convicted twice under  
2 this chapter, except for violations of § 21-28-4.01(c)(2)(iii), § 21-28-4.01(c)(2)(iv), § 21-28-  
3 4.01(c)(2)(v), or § 21-28-4.01(c)(2)(vi), or twice under any statute of the United States or of any  
4 other state, or any combination of them, relating to narcotic drugs, marijuana, depressant, stimulant,  
5 or hallucinogenic drugs.

6 **21-28-4.15. Employment of person under age eighteen (18).**

7 (a) It shall be unlawful for any person eighteen (18) years of age or older to hire, employ  
8 or use any person under eighteen (18) years of age who is at least three (3) years his or her junior  
9 to manufacture, transport, carry, sell, prepare for sale or offer for sale a controlled substance;  
10 provided, that the provisions of this subsection shall not apply to individuals enrolled in a pharmacy  
11 training program approved by the director.

12 (b) Any person who violates this section with respect to:

13 (1) A controlled substance classified in schedules I and II, except the substance classified  
14 as marijuana, is guilty of a crime and upon conviction shall be imprisoned for not ~~less~~ more than  
15 ~~fifteen (15)~~ ten (10) years ~~and may be imprisoned for a term up to life~~ and fined not more than ~~five~~  
16 ~~hundred thousand dollars (\$500,000)~~ ten thousand dollars (\$10,000). ~~In all these cases, the justice~~  
17 ~~imposing sentence shall impose a minimum sentence of fifteen (15) years imprisonment and may~~  
18 ~~only impose a sentence less than that minimum if he or she finds that substantial and compelling~~  
19 ~~circumstances exist which justify imposition of the alternative sentence. The finding may be based~~  
20 ~~upon the character and background of the defendant, the cooperation of the defendant with law~~  
21 ~~enforcement authorities, the nature and circumstances of the offense, and/or the nature and quality~~  
22 ~~of the evidence presented at trial. If a sentence which is less than imprisonment for a term of fifteen~~  
23 ~~(15) years is imposed, the trial justice shall set forth on the record the circumstances which he or~~  
24 ~~she found as justification for imposition of the lesser sentence;~~

25 (2) A controlled substance classified in schedule III or IV, is guilty of a crime and upon  
26 conviction may be imprisoned for not more than ~~twenty (20)~~ five (5) years or fined not more than  
27 ~~forty thousand dollars (\$40,000)~~ five thousand dollars (\$5,000) or both;

28 (3) A controlled substance classified in schedule V or marijuana, is guilty of a crime and  
29 upon conviction may be imprisoned for not more than ~~one year~~ six (6) months or fined not more  
30 than ~~ten thousand dollars (\$10,000)~~ three thousand dollars (\$3,000), or both.

31 **21-28-4.18. Prohibited acts by law enforcement officials — Penalties.**

32 (a) It shall be unlawful for any state or municipal law enforcement official, including  
33 department of correction officers, state marshals, capital police, or other peace officers who are  
34 empowered to enforce the provisions of this chapter, or any employee of a law enforcement agency

1 to:

2 (1) Offer for sale or sell any information pertaining to an ongoing investigation conducted  
3 by any law enforcement agency of a violation of any of the provisions of this chapter; or

4 (2) Use for any unauthorized purpose or sell or destroy or remove from unlawful custody  
5 any of the evidence confiscated as a result of an arrest or seizure arising from the enforcement of  
6 the provisions of this chapter.

7 (b) Any person who violates this section shall be guilty of a crime and upon conviction  
8 ~~shall be imprisoned not less than ten (10) years, and~~ may be imprisoned for a term of up to twenty  
9 ~~(20) ten (10)~~ years. ~~In all these cases, the justice imposing sentence shall impose a minimum~~  
10 ~~sentence of ten (10) years imprisonment and may only impose a sentence less than that minimum~~  
11 ~~if he or she finds that substantial and compelling circumstances exist which justify imposition of~~  
12 ~~the alternative sentence. The finding may be based upon the character and background of the~~  
13 ~~defendant, the cooperation of the defendant with law enforcement authorities, the nature and~~  
14 ~~circumstances of the offense, and/or the nature and quality of the evidence presented at trial. If a~~  
15 ~~sentence which is less than imprisonment for a term of ten (10) years is imposed, the trial justice~~  
16 ~~shall set forth on the record the circumstances, which he or she found as justification for imposition~~  
17 ~~of the lesser sentence.~~

18 SECTION 2. Sections 21-28-4.07.1, 21-28-4.07.2, 21-28-4.16.1, 21-28-4.16.2, 21-28-4.17  
19 and 21-28-4.17.1 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances  
20 Act" are hereby repealed.

21 ~~**21-28-4.07.1. Distribution or manufacturing in or near schools.**~~

22 ~~Any person who violates § 21-28-4.01(A), 21-28-4.01.1, or 21-28-4.07 by distributing or~~  
23 ~~manufacturing a controlled substance listed in schedules I or II in the building or on the grounds,~~  
24 ~~or within three hundred (300) yards of the grounds of a public or private elementary, vocational, or~~  
25 ~~secondary school, or public park or playground shall be punished by a term of imprisonment or~~  
26 ~~fine, or both, up to twice that authorized by § 21-28-4.01(A) or 21-28-4.07, but not exceeding life~~  
27 ~~imprisonment.~~

28 ~~**21-28-4.07.2. Distribution to individuals without knowledge — Crime of violence.**~~

29 ~~(a) Definitions: For the purposes of this section the following words shall have the~~  
30 ~~following definitions:~~

31 ~~(1) "Crime of violence" means:~~

32 ~~(i) An offense that has an element, the use, attempted use, or threatened use of physical~~  
33 ~~force against the person or property of another; or~~

34 ~~(ii) Any other offense that is a felony and that, by its nature, involves a substantial risk that~~

1 ~~physical force against the person or property of another may be used in the course of committing~~  
2 ~~the offense.~~

3 ~~(2) “Without that individual’s knowledge” means: that the individual is unaware that a~~  
4 ~~substance with the ability to alter that individual’s ability to appraise conduct, or to decline~~  
5 ~~participation in, or communicate unwillingness to participate in conduct, is administered to the~~  
6 ~~individual.~~

7 ~~(b) Whoever, with the intent to commit a crime of violence against an individual, as defined~~  
8 ~~in this section and in chapter 11-37, violates this section by distributing a controlled substance, as~~  
9 ~~defined in § 21-28-1.02, or a controlled substance analogue to an individual without that~~  
10 ~~individual’s knowledge, shall be punished by a term of imprisonment not to exceed ten (10) years.~~

11 **21-28-4.16.1. Larceny of a controlled substance.**

12 ~~Any person who steals or attempts to steal any controlled substance from a health care~~  
13 ~~facility, as defined in § 23-17-2, a licensed pharmacy, or any other lawful place of business, where~~  
14 ~~controlled substances are compounded, dispensed, administered, stored, or manufactured,~~  
15 ~~including common carriers, contract carriers, or any usual or lawful carrier, shall be punished by a~~  
16 ~~fine of not more than ten thousand dollars (\$10,000), or by imprisonment of not more than ten (10)~~  
17 ~~years, or both.~~

18 **21-28-4.16.2. Tampering with a controlled substance.**

19 ~~Any person who alters, tampers, substitutes, adulterates in any manner or form, the~~  
20 ~~compound, mixture, or preparation of any controlled substance in a health care facility, as defined~~  
21 ~~in § 23-17-2, shall be punished by a fine of not more than fifteen thousand dollars (\$15,000), or by~~  
22 ~~imprisonment of not more than ten (10) years, or both.~~

23 **21-28-4.17. Additional assessment.**

24 ~~Should any person be convicted of or accept any plea bargain relating to an offense~~  
25 ~~involving the sale of a controlled substance, that person shall, in addition to any fine imposed, be~~  
26 ~~assessed an amount up to one thousand dollars (\$1,000) by the court. The assessment shall be~~  
27 ~~transferred to the general treasury and deposited in the special account designated as the forfeited~~  
28 ~~property account. The funds may be used by law enforcement officials in accordance with the~~  
29 ~~requirements set forth in § 21-28-5.04.~~

30 **21-28-4.17.1. Assessment for drug education, counseling and treatment.**

31 ~~Any person convicted of any offense under this article, other than the possession offenses~~  
32 ~~described in § 21-28-4.01(e), shall, in addition to any other sentence and/or fine imposed, be~~  
33 ~~assessed four hundred dollars (\$400) by the court and the assessment shall be collected from the~~  
34 ~~person convicted before any other fines authorized by this chapter. The court shall not suspend any~~

1 ~~part or all of the imposition of the assessment required by this subsection, unless the court finds an~~  
2 ~~inability to pay. The assessment shall be deposited in the drug education, assessment and treatment~~  
3 ~~account to be used by the department of behavioral healthcare, developmental disabilities and~~  
4 ~~hospitals and the department of health for the purpose of administration, drug education, and~~  
5 ~~treatment.~~

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

=====  
LC000597  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT --  
OFFENCES AND PENALTIES

\*\*\*

1           This act would reduce penalties for non-violent drug offenses and provide for terms of  
2 imprisonment of not more than ten (10) years for any drug offense and would repeal certain other  
3 offenses.

4           This act would take effect upon passage.

=====  
LC000597  
=====