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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY

Introduced By: Senators Sosnowski, Miller, Pichardo, Walaska, and Kettle

Date Introduced: March 10, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 26

4 HEMP GROWTH ACT

5 **2-26-1. Short title.** – This chapter shall be known and may be cited as the "Hemp
6 Growth Act."

7 **2-26-2. Legislative findings.** – The general assembly finds and declares as follows:

8 (1) The cannabis sativa plant used for the production of hemp is separate and distinct
9 from forms of cannabis used to produce marijuana.

10 (2) Hemp is used for products such as building materials, cloth, cordage, fiber, food, floor
11 coverings, fuel, industrial chemicals, paint, paper, particle board, plastics, seed meal, seed oil and
12 yarn.

13 (3) Although federal law currently prohibits the cultivation and possession of hemp, the
14 laws of California, Colorado, Indiana, Kentucky, Maine, Montana, North Dakota, Oregon, South
15 Carolina, Tennessee, Vermont, Virginia and West Virginia permit commercial hemp programs.
16 Rhode Island joins in this effort so that farmers and other businesses in the Rhode Island
17 agricultural industry can take advantage of this market opportunity.

18 (4) States are not required to enforce federal law or prosecute people for engaging in
19 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state

1 of Rhode Island in violation of federal law.

2 **2-26-3. Definitions.** – When used in this chapter, the following terms shall have the
3 following meanings:

4 (1) "Division" means the division of agriculture in the department of environmental
5 management.

6 (2) "Grower" means a person or entity that produces hemp for commercial purposes.

7 (3) "Handler" means a person or entity that produces hemp for processing into
8 commodities, products, or agricultural hemp seed.

9 (4) "Hemp" means the plant of the genus cannabis and any part of such plant, whether
10 growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-
11 tenths percent (0.3%) on a dry weight basis of any part of the plant cannabis, or per volume or
12 weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and
13 tetrahydrocannabinolic acid in any part of the plant cannabis regardless of the moisture content.

14 (5) "Hemp products" means all products made from the plants, including, but not limited
15 to, concentrated oil, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics,
16 seed, seed meal, seed oil, and certified for cultivation.

17 (6) "THC" means tetrahydrocannabinol, the principal psychoactive constituent of
18 cannabis.

19 (7) "THCA" means tetrahydrocannabinol acid.

20 **2-26-4. Hemp an agricultural product.** – Hemp is an agricultural product which may be
21 grown as a crop, produced, possessed, distributed, and commercially traded pursuant to the
22 provisions of this chapter. As an agricultural product, hemp is subject to regulation by the
23 division.

24 **2-26-5. Authority over licensing and sales.** – (a) The division shall promulgate rules
25 and regulations for the licensing and regulation of hemp cultivators and processors, and shall be
26 responsible for the enforcement of such licensing and regulation.

27 (b) All growers and handlers must have a hemp license issued by the division.

28 (c) An application for a hemp license shall include, but not be limited to, the following:

29 (1) The name and address of the person or entity applying for licensure.

30 (2) A certificate of analysis that the seeds or plants obtained for cultivation are of a type
31 and variety that do not exceed the maximum concentration of delta-9 THC as set forth in §2-26-
32 3(4); any seeds obtained from a state or federal agency are presumed not to exceed the maximum
33 concentration and do not require a certificate of analysis.

34 (3) The location of the facility, including the global positioning system location, and

1 other field reference information as may be required by the division with a tracking program and
2 security layout to ensure that all agriculture grown is tracked and monitored from seed to
3 distribution outlets.

4 (4) An explanation of the seed to sale tracking, cultivation method, extraction method,
5 and certificate of analysis or certificate of analysis for the standard hemp seeds.

6 (5) Verification prior to planting any seed, that the plant to be grown is of a type and
7 variety of hemp that will produce a delta-9 THC concentration of no more than three-tenths of
8 one percent (0.3%) on a dry weight basis.

9 (6) Documentation that the licensee has entered into a purchase agreement with a hemp
10 processor.

11 (7) A national criminal background check with the bureau of criminal identification of
12 the department of attorney general. The applicant shall pay the costs of any criminal identification
13 background check.

14 (i) Any applicant who has been convicted of any felony offense under chapter 28 of title
15 21, or any person who has been convicted of murder, manslaughter, first degree sexual assault,
16 second degree sexual assault, first degree child molestation, second degree child molestation,
17 kidnapping, first degree arson, second degree arson, mayhem, robbery, burglary, breaking and
18 entering, assault with a dangerous weapon, or any assault and battery punishable as a felony or
19 assault with intent to commit any offense punishable as a felony, shall be disqualified from
20 holding any license or permit under this chapter. The division shall notify any applicant in
21 writing, for a denial of a license pursuant to this subsection.

22 (ii) For purposes of this section, “conviction” means, in addition to judgements of
23 conviction entered by a court subsequent to a finding of guilty, or plea of guilty, those instances
24 where the defendant has entered a plea of nolo contendere and has received a sentence of
25 probation, or those instances wherein the defendant has entered into a deferred sentence
26 agreement with the attorney general.

27 (8) Any other information as set forth in rules and regulations as required by the division.

28 (d) All applicants shall register with the Rhode Island state police.

29 (e) The division shall charge a non-refundable application fee of two hundred fifty dollars
30 (\$250) for each application to obtain a license. The division shall issue a hemp license to an
31 applicant who meets the requirements of this chapter, upon the license grantee paying a licensure
32 fee of two thousand five hundred dollars (\$2,500). Said license shall be renewed every three (3)
33 years upon payment of a two thousand five hundred dollar (\$2,500) renewal fee. Any license
34 holder convicted of any disqualifying offense described in subsection (c)(7)(i) of this section,

1 shall have their license revoked.

2 **2-26-6. Rulemaking authority.** – (a) The division shall adopt rules to provide for the
3 implementation of this chapter, which shall include rules to require hemp to be tested during
4 growth for THC levels and to require inspection of hemp during sowing, growing season, harvest,
5 storage, and processing. Included in these rules should be a system requiring the licensee to
6 submit crop samples to an approved testing facility, as determined by the division, for testing and
7 verification of compliance with the limits on delta-9 THC concentration.

8 (b) The division shall not adopt under this or any other section, a rule that would prohibit
9 a person or entity to grow or distribute hemp based on the legal status of hemp under federal law.

10 **2-26-7. Registration.** – (a) Except as provided in this section, beginning sixty (60) days
11 after the effective date of this chapter, the division shall accept applications for licensure to
12 cultivate hemp.

13 (b) A person registered with the division pursuant to this chapter, shall allow hemp crops,
14 throughout sowing, year-long growing seasons, harvest, storage, and processing, to be inspected
15 and tested by and at the discretion of the division.

16 **2-26-8. Methods of extraction.** – (a) The division shall only permit the CO₂ extraction
17 method of extracting oil for the production of any hemp product.

18 (1) CO₂ extraction also known as superficial fluid extraction (SFE), is the process of
19 separating one component (the extricant) from another component (the matrix) using superficial
20 fluids as the extracting solvent. Extraction is usually from a solid matrix, but can also be from
21 liquids. SFE can be used as a sample preparation step for analytical purposes, or on a larger scale
22 to either strip unwanted material from a product or collect a desired product.

23 (b) No butane method of extraction shall be allowed for any hemp product.

24 **2-26-9. Research and educational growth by institutions of higher education.** – (a)
25 The division is authorized to certify any higher educational institution in Rhode Island to grow or
26 cultivate industrial hemp for the purpose of agricultural or academic research where such higher
27 educational institution submits the following to the division:

28 (1) The location where the higher educational institution intends to grow or cultivate the
29 industrial hemp;

30 (2) The higher educational institution's research plan; and

31 (3) The name of the employee of the higher educational institution that will supervise the
32 hemp growth, cultivation and research.

33 (b) Growth for purposes of agricultural and educational research by a higher educational
34 institution shall not be subject to the licensing requirements set forth in §2-26-5.

1 (c) The division shall maintain a list of each higher education institution certified to grow
2 or cultivate industrial hemp under this chapter.

3 **2-26-10. Exemptions from state penalties.** – (a) It is not a violation of this state or local
4 law for a person to plant, grow, harvest, and possess hemp or hemp products provided that said
5 person does so in compliance with this chapter and any rules adopted by the division.

6 (b) It is not a violation of state or local law for a person to purchase and possess hemp or
7 hemp products provide that said person does so in compliance with this chapter and any rules
8 adopted by the division.

9 **2-26-11. Transfer of license prohibited.** – (a) No license issued pursuant to this chapter,
10 may be assigned, transferred, or sold to any other person or entity without the prior approval of
11 the division.

12 (b) Any assignee, transferee or purchaser must comply with the application provisions set
13 forth in §2-26-5 and any other rules and regulations as promulgated by the division.

14 SECTION 2. Section 21-28-1.02 of the General Laws in Chapter 21-28 entitled "Uniform
15 Controlled Substances Act" is hereby amended to read as follows:

16 **21-28-1.02. Definitions.** -- Unless the context otherwise requires, the words and phrases
17 as defined in this section are used in this chapter in the sense given them in the following
18 definitions:

19 (1) "Administer" refers to the direct application of controlled substances to the body of a
20 patient or research subject by:

21 (i) A practitioner, or, in his or her presence by his or her authorized agent; or

22 (ii) The patient or research subject at the direction and in the presence of the practitioner
23 whether the application is by injection, inhalation, ingestion, or any other means.

24 (2) "Agent" means an authorized person who acts on behalf of or at the direction of a
25 manufacturer, wholesaler, distributor, or dispenser; except that these terms do not include a
26 common or contract carrier or warehouse operator, when acting in the usual and lawful course of
27 the carrier's or warehouse operator's business.

28 (3) "Apothecary" means a registered pharmacist as defined by the laws of this state and,
29 where the context requires, the owner of a licensed pharmacy or other place of business where
30 controlled substances are compounded or dispensed by a registered pharmacist; and includes
31 registered assistant pharmacists as defined by existing law, but nothing in this chapter shall be
32 construed as conferring on a person who is not registered as a pharmacist any authority, right, or
33 privilege that is not granted to him or her by the pharmacy laws of the state.

34 (4) "Automated data processing system" means a system utilizing computer software and

1 hardware for the purposes of record keeping.

2 (5) "Computer" means programmable electronic device capable of multi-functions,
3 including, but not limited to, storage, retrieval, and processing of information.

4 (6) "Control" means to add a drug or other substance or immediate precursor to a
5 schedule under this chapter, whether by transfer from another schedule or otherwise.

6 (7) "Controlled substance" means a drug, substance, immediate precursor, or synthetic
7 drug in schedules I -- V of this chapter. The term shall not include distilled spirits, wine, or malt
8 beverages, as those terms are defined or used in chapter 1 of title 3, nor tobacco.

9 (8) "Counterfeit substance" means a controlled substance which, or the container or
10 labeling of which, without authorization bears the trademark, trade name, or other identifying
11 mark, imprint, number, or device, or any likeness of them, of a manufacturer, distributor, or
12 dispenser, other than the person or persons who in fact manufactured, distributed, or dispensed
13 the substance and which thereby falsely purports or is represented to be the product of, or to have
14 been distributed by, the other manufacturer, distributor, or dispenser, or which substance is
15 falsely purported to be or represented to be one of the controlled substances by a manufacturer,
16 distributor, or dispenser.

17 (9) "CRT" means cathode ray tube used to impose visual information on a screen.

18 (10) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
19 controlled substance or imitation controlled substance, whether or not there exists an agency
20 relationship.

21 (11) "Department" means the department of health of this state.

22 (12) "Depressant or stimulant drug" means:

23 (i) A drug which contains any quantity of:

24 (A) Barbituric acid or derivatives, compounds, mixtures, or preparations of barbituric
25 acid; and

26 (B) "Barbiturate" or "barbiturates" includes all hypnotic and/or somnifacient drugs,
27 whether or not derivatives of barbituric acid, except that this definition shall not include bromides
28 and narcotics.

29 (ii) A drug which contains any quantity of:

30 (A) Amphetamine or any of its optical isomers;

31 (B) Any salt of amphetamine and/or desoxyephedrine or any salt of an optical isomer of
32 amphetamine and/or desoxyephedrine, or any compound, mixture, or preparation of them.

33 (iii) A drug which contains any quantity of coca leaves. "Coca leaves" includes cocaine,
34 or any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except

1 derivatives of coca leaves, which do not contain cocaine, ecgonine, or substance from which
2 cocaine or ecgonine may be synthesized or made.

3 (iv) Any other drug or substance which contains any quantity of a substance which the
4 attorney general of the United States, or the director of health, after investigation, has found to
5 have, or by regulation designates as having, a potential for abuse because of its depressant or
6 stimulant effect on the central nervous system.

7 (13) "Director" means the director of health.

8 (14) "Dispense" means to deliver, distribute, leave with, give away, or dispose of a
9 controlled substance to the ultimate user or human research subject by or pursuant to the lawful
10 order of a practitioner, including the packaging, labeling, or compounding necessary to prepare
11 the substance for that delivery.

12 (15) "Dispenser" is a practitioner who delivers a controlled substance to the ultimate user
13 or human research subject.

14 (16) "Distribute" means to deliver (other than by administering or dispensing) a
15 controlled substance or an imitation controlled substance and includes actual constructive, or
16 attempted transfer. "Distributor" means a person who so delivers a controlled substance or an
17 imitation controlled substance.

18 (17) "Downtime" means that period of time when a computer is not operable.

19 (18) "Drug addicted person" means a person who exhibits a maladaptive pattern of
20 behavior resulting from drug use, including one or more of the following: impaired control over
21 drug use; compulsive use; and/or continued use despite harm, and craving.

22 (19) "Drug Enforcement Administration" means the Drug Enforcement Administration
23 United States Department of Justice or its successor.

24 (20) "Federal law" means the Comprehensive Drug Abuse Prevention and Control Act of
25 1970, (84 stat. 1236)(see generally 21 U.S.C. § 801 et seq.), and all regulations pertaining to that
26 federal act.

27 (21) "Hardware" means the fixed component parts of a computer.

28 (22) "Hospital" means an institution as defined in chapter 17 of title 23.

29 (23) "Imitation controlled substance" means a substance that is not a controlled
30 substance, which by dosage unit, appearance (including color, shape, size, and markings), or by
31 representations made, would lead a reasonable person to believe that the substance is a controlled
32 substance and, which imitation controlled substances contain substances which if ingested, could
33 be injurious to the health of a person. In those cases when the appearance of the dosage unit is not
34 reasonably sufficient to establish that the substance is an "imitation controlled substance" (for

1 example in the case of powder or liquid), the court or authority concerned should consider, in
2 addition to all other logically relevant factors, the following factors as related to "representations
3 made" in determining whether the substance is an "imitation controlled substance":

4 (i) Statement made by an owner, possessor, transferor, recipient, or by anyone else in
5 control of the substance concerning the nature of the substance, or its use or effect.

6 (ii) Statements made by the owner, possessor, or transferor, to the recipient that the
7 substance may be resold for substantial profit.

8 (iii) Whether the substance is packaged in a manner reasonably similar to packaging of
9 illicit controlled substances.

10 (iv) Whether the distribution or attempted distribution included an exchange of or
11 demand for money or other property as consideration, and whether the amount of the
12 consideration was substantially greater than the reasonable value of the non-controlled substance.

13 (24) "Immediate precursor" means a substance:

14 (i) Which the director of health has found to be and by regulation designated as being the
15 principal compound used, or produced primarily for use, in the manufacture of a controlled
16 substance;

17 (ii) Which is an immediate chemical intermediary used or likely to be used in the
18 manufacture of those controlled substances; and

19 (iii) The control of which is necessary to prevent, curtail, or limit the manufacture of that
20 controlled substance.

21 (25) "Laboratory" means a laboratory approved by the department of health as proper to
22 be entrusted with controlled substances and the use of controlled substances for scientific and
23 medical purposes and for the purposes of instruction.

24 (26) "Marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not;
25 the seeds of the plant; the resin extracted from any part of the plant; and every compound,
26 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not
27 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
28 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of
29 mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the
30 plant which is incapable of germination. [Marijuana shall not include hemp, or hemp products as
31 defined in §2-26-3.](#)

32 (27) "Manufacture" means the production, preparation, propagation, cultivation,
33 compounding, or processing of a drug or other substance, including an imitation controlled
34 substance, either directly or indirectly or by extraction from substances of natural origin, or

1 independently by means of chemical synthesis or by a combination of extraction and chemical
2 synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of
3 its container in conformity with the general laws of this state except by a practitioner as an
4 incident to his or her administration or dispensing of the drug or substance in the course of his or
5 her professional practice.

6 (28) "Manufacturer" means a person who manufactures but does not include an
7 apothecary who compounds controlled substances to be sold or dispensed on prescriptions.

8 (29) "Narcotic drug" means any of the following, whether produced directly or indirectly
9 by extraction from substances of vegetable origin, or independently by means of chemical
10 synthesis or by a combination of extraction and chemical synthesis:

11 (i) Opium and opiates.

12 (ii) A compound, manufacture, salt, derivative, or preparation of opium or opiates.

13 (iii) A substance (and any compound, manufacture, salt, derivative, or preparation of it)
14 which is chemically identical with any of the substances referred to in paragraphs (i) and (ii) of
15 this subdivision.

16 (iv) Any other substance which the attorney general of the United States, or his or her
17 successor, or the director of health, after investigation, has found to have, and by regulation
18 designates as having, a potential for abuse similar to opium and opiates.

19 (30) "Official written order" means an order written on a form provided for that purpose
20 by the Drug Enforcement Administration under any laws of the United States making provision
21 for an official form, if order forms are authorized and required by federal law, and if no order
22 form is provided then on an official form provided for that purpose by the director of health.

23 (31) "Opiate" means any substance having an addiction-forming or addiction-sustaining
24 liability similar to morphine or being capable of conversion into a drug having addiction-forming
25 or addiction-sustaining liability.

26 (32) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
27 seeds of the plant.

28 (33) "Ounce" means an avoirdupois ounce as applied to solids and semi-solids, and a
29 fluid ounce as applied to liquids.

30 (34) "Person" means any corporation, association, partnership, or one or more
31 individuals.

32 (35) "Physical dependence" means a state of adaptation that is manifested by a drug class
33 specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction,
34 decreasing blood level of the drug, and/or administration of an antagonist.

1 (36) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

2 (37) "Practitioner" means:

3 (i) A physician, osteopath, dentist, chiropractist, veterinarian, scientific investigator, or
4 other person licensed, registered or permitted to distribute, dispense, conduct research with
5 respect to or to administer a controlled substance in the course of professional practice or research
6 in this state.

7 (ii) A pharmacy, hospital, or other institution licensed, registered or permitted to
8 distribute, dispense, conduct research with respect to, or to administer a controlled substance in
9 the course of professional practice or research in this state.

10 (38) "Printout" means a hard copy produced by computer that is readable without the aid
11 of any special device.

12 (39) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
13 of a controlled substance.

14 (40) "Researcher" means a person authorized by the director of health to conduct a
15 laboratory as defined in this chapter.

16 (41) "Sell" includes sale, barter, gift, transfer, or delivery in any manner to another, or to
17 offer or agree to do the same.

18 (42) "Software" means programs, procedures and storage of required information data.

19 (43) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
20 cathinones as provided for in schedule I.

21 (44) "Ultimate user" means a person who lawfully possesses a controlled substance for
22 his or her own use or for the use of a member of his or her household, or for administering to an
23 animal owned by him or her or by a member of his or her household.

24 (45) "Wholesaler" means a person who sells, vends, or distributes at wholesale, or as a
25 jobber, broker agent, or distributor, or for resale in any manner in this state any controlled
26 substance.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO AGRICULTURE AND FORESTRY

1 This act would permit the growth of hemp by properly licensed individuals or entities that
2 have applied and met the requirements of this chapter. It would also provide that higher
3 educational institutions could grow hemp for educational and research purposes. It would exclude
4 hemp and hemp products from the prohibitions set forth in chapter 28 of title 21 as they relate
5 marijuana.

6 This act would take effect upon passage.

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